



Adopted in House Comm. on Mar 04, 2004

09300HB5094ham001

LRB093 18656 BDD 48288 a

1 AMENDMENT TO HOUSE BILL 5094

2 AMENDMENT NO. _____. Amend House Bill 5094 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by
5 changing Sections 3.135, 39, and 39.5 and by adding Sections
6 9.14 and 52.4 as follows:

7 (415 ILCS 5/3.135) (was 415 ILCS 5/3.94)

8 Sec. 3.135. Coal combustion by-product; CCB.

9 (a) "Coal combustion by-product" (CCB) means coal
10 combustion waste when used beneficially for any of the
11 following purposes:

12 (1) The extraction or recovery of material compounds
13 contained within CCB.

14 (2) The use of CCB as a raw ingredient or mineral filler in
15 the manufacture of the following commercial products: cement;
16 concrete and concrete mortars; cementious ~~concrete~~ products
17 including block, pipe and precast/prestressed components;
18 asphalt or cementious ~~cement-based~~ roofing products ~~shingles~~;
19 plastic products including pipes and fittings; paints and metal
20 alloys; kiln fired products including bricks, blocks, and
21 tiles.

22 (3) CCB used in accordance ~~conformance~~ with the IDOT
23 Standard specifications and subsection 10 of this Section or
24 ~~and~~ under the approval of the Department of Transportation for

1 IDOT projects.

2 (4) Bottom ash used as antiskid material, athletic tracks,
3 or foot paths.

4 (5) Use ~~as a substitute for lime (CaO and MgO)~~ in the ~~lime~~
5 modification of soils providing the CCB meets the Illinois
6 Department of Transportation ("IDOT") specifications for soil
7 modifiers ~~byproduct limes~~.

8 (6) CCB used as a functionally equivalent substitute for
9 agricultural lime as a soil conditioner.

10 (7) Bottom ash used in non-IDOT pavement base, pipe
11 bedding, or foundation backfill.

12 (8) Structural fill, when used in an engineered application
13 or combined with cement, sand, or water to produce a controlled
14 strength fill material and covered with 12 inches of soil
15 unless infiltration is prevented by the material itself or
16 other cover material.

17 (9) Mine subsidence, mine fire control, mine sealing, and
18 mine reclamation.

19 (10) Except to the extent that the uses are in strict
20 accordance with the appropriate ASTM standard as listed in item
21 (G) or are otherwise authorized by law without such
22 restrictions, uses (3) and (7) through (9) shall be subject to
23 the following conditions:

24 (A) CCB shall not have been mixed with hazardous waste
25 prior to use;

26 (B) CCB shall not exceed Class I Groundwater Standards
27 for the following parameters ~~metals~~ when tested utilizing
28 test method ASTM D3987-85: arsenic, barium, boron,
29 cadmium, antimony, beryllium, chloride, chromium, cobalt,
30 copper, iron, lead, manganese, mercury, nickel, selenium,
31 silver, sulfate, thallium, phenol, zinc, and total
32 dissolved solids. The sample or samples tested shall be
33 representative of the CCB being considered for use;

34 (C) Unless otherwise exempted, users of CCB shall

1 provide notification to the Agency for each project
2 utilizing CCB documenting the quantity of CCB utilized and
3 certification of compliance with conditions (a) (10) (A) and
4 (B) of this Section. Notification shall not be required for
5 pavement base, parking lot base, or building base projects
6 utilizing less than 10,000 tons, flowable fill/grout
7 projects utilizing less than 1,000 cubic yards or other
8 applications utilizing less than 100 tons;

9 (D) Fly ash shall be applied in a manner that minimizes
10 the generation of airborne particles and dust using
11 techniques such as moisture conditioning, granulating,
12 inground application, or other demonstrated method; ~~and~~

13 (E) CCB is not to be accumulated speculatively. CCB is
14 not accumulated speculatively if during the calendar year,
15 the CCB used is equal to 75% of the CCB by weight or volume
16 accumulated at the beginning of the period; ~~and~~

17 (F) CCB includes any prescribed mixture of fly ash,
18 bottom ash, boiler slag, flue gas desulfurization scrubber
19 sludge, fluidized bed combustion ash, stoker boiler ash and
20 will be tested as intended for use; and

21 (G) The appropriate ASTM standards applicable to the
22 beneficial use of CCB are at a minimum: E-2277-03 for uses
23 under subsection (a) (8) of this Section.

24 (b) To encourage and promote the utilization of CCB in
25 productive and beneficial applications, upon request by the
26 applicant, the Agency shall ~~may~~ make a written beneficial use
27 determinations ~~determination~~ that coal-combustion waste is CCB
28 when used in a manner other than those uses specified in
29 subsection (a) of ~~that specified in~~ this Section if the
30 applicant demonstrates that use of the coal-combustion waste
31 satisfies all of the following criteria: the use will not
32 cause, threaten, or allow the discharge of any contaminants
33 into the environment; the use will otherwise protect human
34 health and safety and the environment; and the use constitutes

1 a legitimate use of the coal-combustion waste as an ingredient
2 or raw material that is an effective substitute for an
3 analogous ingredient or raw material ~~if the use has been shown~~
4 ~~to have no adverse environmental impact greater than the~~
5 ~~beneficial uses specified, in consultation with the Department~~
6 ~~of Mines and Minerals, the Illinois Clean Coal Institute, the~~
7 ~~Department of Transportation, and such other agencies as may be~~
8 ~~appropriate.~~

9 The Agency's beneficial use determinations may allow the
10 uses set forth in items (7) through (9) of subsection (a)
11 without the CCB being subject to the restrictions set forth in
12 subsection (a)(10)(B) and (E) of this Section.

13 The fee for each beneficial use determination under this
14 subsection (b) is \$1,250. The fee must be submitted with each
15 application and must be made payable to the State of Illinois.
16 All fees collected under this subsection (b) are non-refundable
17 and shall be deposited into the Environmental Protection Permit
18 and Inspection Fund.

19 Within 90 days after the receipt of an application for a
20 beneficial use determination under this subsection (b), the
21 Agency shall, in writing, approve, disapprove, or approve with
22 conditions the beneficial use. Any disapproval or approval with
23 conditions shall include the Agency's reasons for the
24 disapproval or conditions. Failure of the Agency to issue a
25 decision within 90 days shall constitute disapproval of the
26 beneficial use unless the applicant waives the deadline in
27 writing. These beneficial use determinations are subject to
28 review under Section 40 of this Act.

29 Any approval of a beneficial use under this subsection (b)
30 becomes effective upon the date of the Agency's written
31 decision and remains in effect for a period of 5 years. If an
32 applicant desires to continue a beneficial use after the
33 expiration of the 5-year period, the applicant must submit a
34 new application and fee in accordance with this subsection (b).

1 Coal-combustion waste for which a beneficial use is
2 approved pursuant to this subsection (b) shall be considered
3 CCB during the effective period of the approval as long as it
4 is used in accordance with the approval and any conditions.
5 Coal-combustion waste that is not used in accordance with the
6 approval and any conditions shall not be considered CCB.

7 The Board shall adopt rules establishing standards and
8 procedures for the Agency's issuance of beneficial use
9 determinations under this subsection (b). The Board rules may
10 also, but are not required to, include standards and procedures
11 for the revocation of the beneficial use determinations. Prior
12 to the effective date of Board rules adopted under this
13 subsection (b), the Agency is authorized to make beneficial use
14 determinations in accordance with this subsection (b).

15 The Agency is authorized to prepare and distribute guidance
16 documents relative to its administration of this Section.
17 Guidance documents prepared under this subsection are not rules
18 for the purposes of the Illinois Administrative Procedure Act.
19 (Source: P.A. 92-574, eff. 6-26-02.)

20 (415 ILCS 5/9.14 new)

21 Sec. 9.14. Streamlining permitting requirements.

22 (a) The General Assembly finds that existing air pollution
23 permitting requirements should be streamlined or reduced,
24 where:

25 (1) There is no threat to the public health or welfare
26 from the streamlining; and

27 (2) The streamlining is not inconsistent with federal
28 law, regulation or policy.

29 (b) Streamlining under this Section includes, but is not
30 limited to:

31 (1) The adoption of additional permit exemptions for
32 categories and classes of emission units;

33 (2) The adoption of provisions for permits by rule for

1 certain categories of minor sources for which such an
2 approach could be effectively utilized;

3 (3) The adoption of provisions to facilitate the
4 utilization of General Permits for categories of sources in
5 which a significant number of similar sources exist and the
6 permits could be effectively utilized, which permits may
7 provide for the addition and replacement of certain
8 emission units; and

9 (4) For certain types of new or modified emission units
10 in appropriate circumstances, and at the applicant's own
11 risk, the adoption of provisions allowing an applicant to
12 commence construction of a emission unit before a permit is
13 issued but after a complete permit application has been
14 submitted.

15 (c) Consistent with these findings, the Board shall examine
16 the current scope of State air pollution control permit
17 requirements with the objective of creating additional permit
18 exemptions and eliminating permit requirements for
19 insignificant activities and emission units. The Agency shall
20 propose before January 1, 2005, and the Board shall adopt,
21 pursuant to Sections 27 and 28 of this Act, revisions to its
22 regulations reflecting the results of the permit streamlining
23 efforts, consistent with subsections (a) and (b) of this
24 Section. Specifically, the Board's revisions shall include,
25 but not be limited to, the following:

26 (1) Simplify and eliminate the requirements for
27 construction permits to replace or add air pollution
28 control equipment for existing emission units in
29 circumstances where:

30 (A) The existing emission unit is permitted and has
31 operated in compliance for the past year;

32 (B) The new control equipment will provide equal or
33 better control of the target pollutants;

34 (C) The new control device will not be accompanied

1 by a net increase in emissions of any collateral
2 pollutant;

3 (D) New or different regulatory requirements will
4 not apply or potentially apply to the unit; and

5 (E) The new air pollution control equipment will be
6 equipped with the instrumentation and monitoring
7 devices that are typically installed on the new
8 equipment of such type.

9 (2) For permitted sources that have federally
10 enforceable state operating permits limiting their
11 potential to emit, simplify and eliminate the requirement
12 for permitting of proposed new or modified emission unit in
13 circumstances where:

14 (A) The potential to emit any regulated air
15 pollutant in the absence of air pollution control
16 equipment from the emission unit is less than 0.1 pound
17 per hour or whatever higher rate the Board deems
18 appropriate;

19 (B) The raw materials and fuels used or present in
20 the emission unit that cause or contribute to
21 emissions, based on the information contained in
22 Material Safety Data Sheets for those materials, do not
23 contain any hazardous air pollutants as defined under
24 Section 112(b) of the federal Clean Air Act;

25 (C) The emission unit is not subject to an emission
26 standard or other regulatory requirement pursuant to
27 Section 111 of the federal Clean Air Act;

28 (D) Potential emissions of regulated air
29 pollutants from the emission unit will not, in
30 combination with emissions from existing units or
31 other proposed units, trigger permitting requirements
32 under Section 39.5, permitting requirements under
33 Sections 165 or 173 of the federal Clean Air Act, or
34 the requirement to obtain a revised federally

1 enforceable state operating permit limiting the
2 source's potential to emit; and

3 (E) The source is not currently the subject of a
4 written compliance inquiry or formal enforcement
5 action by the State of Illinois or USEPA related to the
6 emissions of the source.

7 (3) For permitted sources that that are not major
8 sources subject to Section 39.5 and that do not have a
9 federally enforceable state operating permit limiting
10 their potential to emit, simplify, and eliminate the
11 requirement for permitting of proposed new or modified
12 emission units before their construction and operation in
13 circumstances where:

14 (A) The potential to emit of any regulated air
15 pollutant in the absence of air pollution control
16 equipment from the emission unit is either:

17 (i) Less than 0.1 pound per hour or whatever
18 higher rate the Board deems appropriate; or

19 (ii) Less than 0.5 pound per hour, or whatever
20 higher rate the Board deems appropriate, and the
21 permittee provides prior notification to the
22 Agency of the intent to construct or install the
23 unit;

24 (B) The emission unit is not subject to an emission
25 standard or other regulatory requirement under Section
26 111 or 112 of the federal Clean Air Act;

27 (C) Potential emissions of regulated air
28 pollutants from the emission unit will not, in
29 combination with the emissions from existing units or
30 other proposed units, trigger permitting requirements
31 under Section 39.5 or the requirement to obtain a
32 federally enforceable permit limiting the source's
33 potential to emit; and

34 (D) The source is not currently the subject of a

1 written compliance inquiry or formal enforcement
2 action by the State of Illinois or USEPA related to the
3 emissions of the source.

4 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)
5 Sec. 39. Issuance of permits; procedures.

6 (a) When the Board has by regulation required a permit for
7 the construction, installation, or operation of any type of
8 facility, equipment, vehicle, vessel, or aircraft, the
9 applicant shall apply to the Agency for such permit and it
10 shall be the duty of the Agency to issue such a permit upon
11 proof by the applicant that the facility, equipment, vehicle,
12 vessel, or aircraft will not cause a violation of this Act or
13 of regulations hereunder. The Agency shall adopt such
14 procedures as are necessary to carry out its duties under this
15 Section. In making its determinations on permit applications
16 under this Section the Agency may consider prior adjudications
17 of noncompliance with this Act by the applicant that involved a
18 release of a contaminant into the environment. In granting
19 permits, the Agency may impose reasonable conditions
20 specifically related to the applicant's past compliance
21 history with this Act as necessary to correct, detect, or
22 prevent noncompliance. The Agency may impose such other
23 conditions as may be necessary to accomplish the purposes of
24 this Act, and as are not inconsistent with the regulations
25 promulgated by the Board hereunder. Except as otherwise
26 provided in this Act, a bond or other security shall not be
27 required as a condition for the issuance of a permit. If the
28 Agency denies any permit under this Section, the Agency shall
29 transmit to the applicant within the time limitations of this
30 Section specific, detailed statements as to the reasons the
31 permit application was denied. Such statements shall include,
32 but not be limited to the following:

33 (i) the Sections of this Act which may be violated if

1 the permit were granted;

2 (ii) the provision of the regulations, promulgated
3 under this Act, which may be violated if the permit were
4 granted;

5 (iii) the specific type of information, if any, which
6 the Agency deems the applicant did not provide the Agency;
7 and

8 (iv) a statement of specific reasons why the Act and
9 the regulations might not be met if the permit were
10 granted.

11 If there is no final action by the Agency within 90 days
12 after the filing of the application for permit, the applicant
13 may deem the permit issued; except that this time period shall
14 be extended to 180 days when (1) notice and opportunity for
15 public hearing are required by State or federal law or
16 regulation, (2) the application which was filed is for any
17 permit to develop a landfill subject to issuance pursuant to
18 this subsection, or (3) the application that was filed is for a
19 MSWLF unit required to issue public notice under subsection (p)
20 of Section 39. The 90-day and 180-day time periods for the
21 Agency to take final action do not apply to NPDES permit
22 applications under subsection (b) of this Section, to RCRA
23 permit applications under subsection (d) of this Section, or to
24 UIC permit applications under subsection (e) of this Section.

25 The Agency shall publish notice of all final permit
26 determinations for development permits for MSWLF units and for
27 significant permit modifications for lateral expansions for
28 existing MSWLF units one time in a newspaper of general
29 circulation in the county in which the unit is or is proposed
30 to be located.

31 After January 1, 1994 and until July 1, 1998, operating
32 permits issued under this Section by the Agency for sources of
33 air pollution permitted to emit less than 25 tons per year of
34 any combination of regulated air pollutants, as defined in

1 Section 39.5 of this Act, shall be required to be renewed only
2 upon written request by the Agency consistent with applicable
3 provisions of this Act and regulations promulgated hereunder.
4 Such operating permits shall expire 180 days after the date of
5 such a request. The Board shall revise its regulations for the
6 existing State air pollution operating permit program
7 consistent with this provision by January 1, 1994.

8 After June 30, 1998, operating permits issued under this
9 Section by the Agency for sources of air pollution that are not
10 subject to Section 39.5 of this Act and are not required to
11 have a federally enforceable State operating permit shall be
12 required to be renewed only upon written request by the Agency
13 consistent with applicable provisions of this Act and its
14 rules. Such operating permits shall expire 180 days after the
15 date of such a request. Before July 1, 1998, the Board shall
16 revise its rules for the existing State air pollution operating
17 permit program consistent with this paragraph and shall adopt
18 rules that require a source to demonstrate that it qualifies
19 for a permit under this paragraph.

20 (b) The Agency may issue NPDES permits exclusively under
21 this subsection for the discharge of contaminants from point
22 sources into navigable waters, all as defined in the Federal
23 Water Pollution Control Act, as now or hereafter amended,
24 within the jurisdiction of the State, or into any well.

25 All NPDES permits shall contain those terms and conditions,
26 including but not limited to schedules of compliance, which may
27 be required to accomplish the purposes and provisions of this
28 Act.

29 The Agency may issue general NPDES permits for discharges
30 from categories of point sources which are subject to the same
31 permit limitations and conditions. Such general permits may be
32 issued without individual applications and shall conform to
33 regulations promulgated under Section 402 of the Federal Water
34 Pollution Control Act, as now or hereafter amended.

1 The Agency may include, among such conditions, effluent
2 limitations and other requirements established under this Act,
3 Board regulations, the Federal Water Pollution Control Act, as
4 now or hereafter amended, and regulations pursuant thereto, and
5 schedules for achieving compliance therewith at the earliest
6 reasonable date.

7 The Agency shall adopt filing requirements and procedures
8 which are necessary and appropriate for the issuance of NPDES
9 permits, and which are consistent with the Act or regulations
10 adopted by the Board, and with the Federal Water Pollution
11 Control Act, as now or hereafter amended, and regulations
12 pursuant thereto.

13 The Agency, subject to any conditions which may be
14 prescribed by Board regulations, may issue NPDES permits to
15 allow discharges beyond deadlines established by this Act or by
16 regulations of the Board without the requirement of a variance,
17 subject to the Federal Water Pollution Control Act, as now or
18 hereafter amended, and regulations pursuant thereto.

19 (c) Except for those facilities owned or operated by
20 sanitary districts organized under the Metropolitan Water
21 Reclamation District Act, no permit for the development or
22 construction of a new pollution control facility may be granted
23 by the Agency unless the applicant submits proof to the Agency
24 that the location of the facility has been approved by the
25 County Board of the county if in an unincorporated area, or the
26 governing body of the municipality when in an incorporated
27 area, in which the facility is to be located in accordance with
28 Section 39.2 of this Act.

29 In the event that siting approval granted pursuant to
30 Section 39.2 has been transferred to a subsequent owner or
31 operator, that subsequent owner or operator may apply to the
32 Agency for, and the Agency may grant, a development or
33 construction permit for the facility for which local siting
34 approval was granted. Upon application to the Agency for a

1 development or construction permit by that subsequent owner or
2 operator, the permit applicant shall cause written notice of
3 the permit application to be served upon the appropriate county
4 board or governing body of the municipality that granted siting
5 approval for that facility and upon any party to the siting
6 proceeding pursuant to which siting approval was granted. In
7 that event, the Agency shall conduct an evaluation of the
8 subsequent owner or operator's prior experience in waste
9 management operations in the manner conducted under subsection
10 (i) of Section 39 of this Act.

11 Beginning August 20, 1993, if the pollution control
12 facility consists of a hazardous or solid waste disposal
13 facility for which the proposed site is located in an
14 unincorporated area of a county with a population of less than
15 100,000 and includes all or a portion of a parcel of land that
16 was, on April 1, 1993, adjacent to a municipality having a
17 population of less than 5,000, then the local siting review
18 required under this subsection (c) in conjunction with any
19 permit applied for after that date shall be performed by the
20 governing body of that adjacent municipality rather than the
21 county board of the county in which the proposed site is
22 located; and for the purposes of that local siting review, any
23 references in this Act to the county board shall be deemed to
24 mean the governing body of that adjacent municipality;
25 provided, however, that the provisions of this paragraph shall
26 not apply to any proposed site which was, on April 1, 1993,
27 owned in whole or in part by another municipality.

28 In the case of a pollution control facility for which a
29 development permit was issued before November 12, 1981, if an
30 operating permit has not been issued by the Agency prior to
31 August 31, 1989 for any portion of the facility, then the
32 Agency may not issue or renew any development permit nor issue
33 an original operating permit for any portion of such facility
34 unless the applicant has submitted proof to the Agency that the

1 location of the facility has been approved by the appropriate
2 county board or municipal governing body pursuant to Section
3 39.2 of this Act.

4 After January 1, 1994, if a solid waste disposal facility,
5 any portion for which an operating permit has been issued by
6 the Agency, has not accepted waste disposal for 5 or more
7 consecutive calendar years, before that facility may accept
8 any new or additional waste for disposal, the owner and
9 operator must obtain a new operating permit under this Act for
10 that facility unless the owner and operator have applied to the
11 Agency for a permit authorizing the temporary suspension of
12 waste acceptance. The Agency may not issue a new operation
13 permit under this Act for the facility unless the applicant has
14 submitted proof to the Agency that the location of the facility
15 has been approved or re-approved by the appropriate county
16 board or municipal governing body under Section 39.2 of this
17 Act after the facility ceased accepting waste.

18 Except for those facilities owned or operated by sanitary
19 districts organized under the Metropolitan Water Reclamation
20 District Act, and except for new pollution control facilities
21 governed by Section 39.2, and except for fossil fuel mining
22 facilities, the granting of a permit under this Act shall not
23 relieve the applicant from meeting and securing all necessary
24 zoning approvals from the unit of government having zoning
25 jurisdiction over the proposed facility.

26 Before beginning construction on any new sewage treatment
27 plant or sludge drying site to be owned or operated by a
28 sanitary district organized under the Metropolitan Water
29 Reclamation District Act for which a new permit (rather than
30 the renewal or amendment of an existing permit) is required,
31 such sanitary district shall hold a public hearing within the
32 municipality within which the proposed facility is to be
33 located, or within the nearest community if the proposed
34 facility is to be located within an unincorporated area, at

1 which information concerning the proposed facility shall be
2 made available to the public, and members of the public shall
3 be given the opportunity to express their views concerning the
4 proposed facility.

5 The Agency may issue a permit for a municipal waste
6 transfer station without requiring approval pursuant to
7 Section 39.2 provided that the following demonstration is made:

8 (1) the municipal waste transfer station was in
9 existence on or before January 1, 1979 and was in
10 continuous operation from January 1, 1979 to January 1,
11 1993;

12 (2) the operator submitted a permit application to the
13 Agency to develop and operate the municipal waste transfer
14 station during April of 1994;

15 (3) the operator can demonstrate that the county board
16 of the county, if the municipal waste transfer station is
17 in an unincorporated area, or the governing body of the
18 municipality, if the station is in an incorporated area,
19 does not object to resumption of the operation of the
20 station; and

21 (4) the site has local zoning approval.

22 (d) The Agency may issue RCRA permits exclusively under
23 this subsection to persons owning or operating a facility for
24 the treatment, storage, or disposal of hazardous waste as
25 defined under this Act.

26 All RCRA permits shall contain those terms and conditions,
27 including but not limited to schedules of compliance, which may
28 be required to accomplish the purposes and provisions of this
29 Act. The Agency may include among such conditions standards and
30 other requirements established under this Act, Board
31 regulations, the Resource Conservation and Recovery Act of 1976
32 (P.L. 94-580), as amended, and regulations pursuant thereto,
33 and may include schedules for achieving compliance therewith as
34 soon as possible. The Agency shall require that a performance

1 bond or other security be provided as a condition for the
2 issuance of a RCRA permit.

3 In the case of a permit to operate a hazardous waste or PCB
4 incinerator as defined in subsection (k) of Section 44, the
5 Agency shall require, as a condition of the permit, that the
6 operator of the facility perform such analyses of the waste to
7 be incinerated as may be necessary and appropriate to ensure
8 the safe operation of the incinerator.

9 The Agency shall adopt filing requirements and procedures
10 which are necessary and appropriate for the issuance of RCRA
11 permits, and which are consistent with the Act or regulations
12 adopted by the Board, and with the Resource Conservation and
13 Recovery Act of 1976 (P.L. 94-580), as amended, and regulations
14 pursuant thereto.

15 The applicant shall make available to the public for
16 inspection all documents submitted by the applicant to the
17 Agency in furtherance of an application, with the exception of
18 trade secrets, at the office of the county board or governing
19 body of the municipality. Such documents may be copied upon
20 payment of the actual cost of reproduction during regular
21 business hours of the local office. The Agency shall issue a
22 written statement concurrent with its grant or denial of the
23 permit explaining the basis for its decision.

24 (e) The Agency may issue UIC permits exclusively under this
25 subsection to persons owning or operating a facility for the
26 underground injection of contaminants as defined under this
27 Act.

28 All UIC permits shall contain those terms and conditions,
29 including but not limited to schedules of compliance, which may
30 be required to accomplish the purposes and provisions of this
31 Act. The Agency may include among such conditions standards and
32 other requirements established under this Act, Board
33 regulations, the Safe Drinking Water Act (P.L. 93-523), as
34 amended, and regulations pursuant thereto, and may include

1 schedules for achieving compliance therewith. The Agency shall
2 require that a performance bond or other security be provided
3 as a condition for the issuance of a UIC permit.

4 The Agency shall adopt filing requirements and procedures
5 which are necessary and appropriate for the issuance of UIC
6 permits, and which are consistent with the Act or regulations
7 adopted by the Board, and with the Safe Drinking Water Act
8 (P.L. 93-523), as amended, and regulations pursuant thereto.

9 The applicant shall make available to the public for
10 inspection, all documents submitted by the applicant to the
11 Agency in furtherance of an application, with the exception of
12 trade secrets, at the office of the county board or governing
13 body of the municipality. Such documents may be copied upon
14 payment of the actual cost of reproduction during regular
15 business hours of the local office. The Agency shall issue a
16 written statement concurrent with its grant or denial of the
17 permit explaining the basis for its decision.

18 (f) In making any determination pursuant to Section 9.1 of
19 this Act:

20 (1) The Agency shall have authority to make the
21 determination of any question required to be determined by
22 the Clean Air Act, as now or hereafter amended, this Act,
23 or the regulations of the Board, including the
24 determination of the Lowest Achievable Emission Rate,
25 Maximum Achievable Control Technology, or Best Available
26 Control Technology, consistent with the Board's
27 regulations, if any.

28 (2) The Agency shall, after conferring with the
29 applicant, give written notice to the applicant of its
30 proposed decision on the application including the terms
31 and conditions of the permit to be issued and the facts,
32 conduct or other basis upon which the Agency will rely to
33 support its proposed action.

34 (3) Following such notice, the Agency shall give the

1 applicant an opportunity for a hearing in accordance with
2 the provisions of Sections 10-25 through 10-60 of the
3 Illinois Administrative Procedure Act.

4 (g) The Agency shall include as conditions upon all permits
5 issued for hazardous waste disposal sites such restrictions
6 upon the future use of such sites as are reasonably necessary
7 to protect public health and the environment, including
8 permanent prohibition of the use of such sites for purposes
9 which may create an unreasonable risk of injury to human health
10 or to the environment. After administrative and judicial
11 challenges to such restrictions have been exhausted, the Agency
12 shall file such restrictions of record in the Office of the
13 Recorder of the county in which the hazardous waste disposal
14 site is located.

15 (h) A hazardous waste stream may not be deposited in a
16 permitted hazardous waste site unless specific authorization
17 is obtained from the Agency by the generator and disposal site
18 owner and operator for the deposit of that specific hazardous
19 waste stream. The Agency may grant specific authorization for
20 disposal of hazardous waste streams only after the generator
21 has reasonably demonstrated that, considering technological
22 feasibility and economic reasonableness, the hazardous waste
23 cannot be reasonably recycled for reuse, nor incinerated or
24 chemically, physically or biologically treated so as to
25 neutralize the hazardous waste and render it nonhazardous. In
26 granting authorization under this Section, the Agency may
27 impose such conditions as may be necessary to accomplish the
28 purposes of the Act and are consistent with this Act and
29 regulations promulgated by the Board hereunder. If the Agency
30 refuses to grant authorization under this Section, the
31 applicant may appeal as if the Agency refused to grant a
32 permit, pursuant to the provisions of subsection (a) of Section
33 40 of this Act. For purposes of this subsection (h), the term
34 "generator" has the meaning given in Section 3.205 of this Act,

1 unless: (1) the hazardous waste is treated, incinerated, or
2 partially recycled for reuse prior to disposal, in which case
3 the last person who treats, incinerates, or partially recycles
4 the hazardous waste prior to disposal is the generator; or (2)
5 the hazardous waste is from a response action, in which case
6 the person performing the response action is the generator.
7 This subsection (h) does not apply to any hazardous waste that
8 is restricted from land disposal under 35 Ill. Adm. Code 728.

9 (i) Before issuing any RCRA permit or any permit for a
10 waste storage site, sanitary landfill, waste disposal site,
11 waste transfer station, waste treatment facility, waste
12 incinerator, or any waste-transportation operation, the Agency
13 shall conduct an evaluation of the prospective owner's or
14 operator's prior experience in waste management operations.
15 The Agency may deny such a permit if the prospective owner or
16 operator or any employee or officer of the prospective owner or
17 operator has a history of:

18 (1) repeated violations of federal, State, or local
19 laws, regulations, standards, or ordinances in the
20 operation of waste management facilities or sites; or

21 (2) conviction in this or another State of any crime
22 which is a felony under the laws of this State, or
23 conviction of a felony in a federal court; or

24 (3) proof of gross carelessness or incompetence in
25 handling, storing, processing, transporting or disposing
26 of waste.

27 (j) The issuance under this Act of a permit to engage in
28 the surface mining of any resources other than fossil fuels
29 shall not relieve the permittee from its duty to comply with
30 any applicable local law regulating the commencement, location
31 or operation of surface mining facilities.

32 (k) A development permit issued under subsection (a) of
33 Section 39 for any facility or site which is required to have a
34 permit under subsection (d) of Section 21 shall expire at the

1 end of 2 calendar years from the date upon which it was issued,
2 unless within that period the applicant has taken action to
3 develop the facility or the site. In the event that review of
4 the conditions of the development permit is sought pursuant to
5 Section 40 or 41, or permittee is prevented from commencing
6 development of the facility or site by any other litigation
7 beyond the permittee's control, such two-year period shall be
8 deemed to begin on the date upon which such review process or
9 litigation is concluded.

10 (l) No permit shall be issued by the Agency under this Act
11 for construction or operation of any facility or site located
12 within the boundaries of any setback zone established pursuant
13 to this Act, where such construction or operation is
14 prohibited.

15 (m) The Agency may issue permits to persons owning or
16 operating a facility for composting landscape waste. In
17 granting such permits, the Agency may impose such conditions as
18 may be necessary to accomplish the purposes of this Act, and as
19 are not inconsistent with applicable regulations promulgated
20 by the Board. Except as otherwise provided in this Act, a bond
21 or other security shall not be required as a condition for the
22 issuance of a permit. If the Agency denies any permit pursuant
23 to this subsection, the Agency shall transmit to the applicant
24 within the time limitations of this subsection specific,
25 detailed statements as to the reasons the permit application
26 was denied. Such statements shall include but not be limited to
27 the following:

28 (1) the Sections of this Act that may be violated if
29 the permit were granted;

30 (2) the specific regulations promulgated pursuant to
31 this Act that may be violated if the permit were granted;

32 (3) the specific information, if any, the Agency deems
33 the applicant did not provide in its application to the
34 Agency; and

1 (4) a statement of specific reasons why the Act and the
2 regulations might be violated if the permit were granted.

3 If no final action is taken by the Agency within 90 days
4 after the filing of the application for permit, the applicant
5 may deem the permit issued. Any applicant for a permit may
6 waive the 90 day limitation by filing a written statement with
7 the Agency.

8 The Agency shall issue permits for such facilities upon
9 receipt of an application that includes a legal description of
10 the site, a topographic map of the site drawn to the scale of
11 200 feet to the inch or larger, a description of the operation,
12 including the area served, an estimate of the volume of
13 materials to be processed, and documentation that:

14 (1) the facility includes a setback of at least 200
15 feet from the nearest potable water supply well;

16 (2) the facility is located outside the boundary of the
17 10-year floodplain or the site will be floodproofed;

18 (3) the facility is located so as to minimize
19 incompatibility with the character of the surrounding
20 area, including at least a 200 foot setback from any
21 residence, and in the case of a facility that is developed
22 or the permitted composting area of which is expanded after
23 November 17, 1991, the composting area is located at least
24 1/8 mile from the nearest residence (other than a residence
25 located on the same property as the facility);

26 (4) the design of the facility will prevent any compost
27 material from being placed within 5 feet of the water
28 table, will adequately control runoff from the site, and
29 will collect and manage any leachate that is generated on
30 the site;

31 (5) the operation of the facility will include
32 appropriate dust and odor control measures, limitations on
33 operating hours, appropriate noise control measures for
34 shredding, chipping and similar equipment, management

1 procedures for composting, containment and disposal of
2 non-compostable wastes, procedures to be used for
3 terminating operations at the site, and recordkeeping
4 sufficient to document the amount of materials received,
5 composted and otherwise disposed of; and

6 (6) the operation will be conducted in accordance with
7 any applicable rules adopted by the Board.

8 The Agency shall issue renewable permits of not longer than
9 10 years in duration for the composting of landscape wastes, as
10 defined in Section 3.155 of this Act, based on the above
11 requirements.

12 The operator of any facility permitted under this
13 subsection (m) must submit a written annual statement to the
14 Agency on or before April 1 of each year that includes an
15 estimate of the amount of material, in tons, received for
16 composting.

17 (n) The Agency shall issue permits jointly with the
18 Department of Transportation for the dredging or deposit of
19 material in Lake Michigan in accordance with Section 18 of the
20 Rivers, Lakes, and Streams Act.

21 (o) (Blank.)

22 (p) (1) Any person submitting an application for a permit
23 for a new MSWLF unit or for a lateral expansion under
24 subsection (t) of Section 21 of this Act for an existing MSWLF
25 unit that has not received and is not subject to local siting
26 approval under Section 39.2 of this Act shall publish notice of
27 the application in a newspaper of general circulation in the
28 county in which the MSWLF unit is or is proposed to be located.
29 The notice must be published at least 15 days before submission
30 of the permit application to the Agency. The notice shall state
31 the name and address of the applicant, the location of the
32 MSWLF unit or proposed MSWLF unit, the nature and size of the
33 MSWLF unit or proposed MSWLF unit, the nature of the activity
34 proposed, the probable life of the proposed activity, the date

1 the permit application will be submitted, and a statement that
2 persons may file written comments with the Agency concerning
3 the permit application within 30 days after the filing of the
4 permit application unless the time period to submit comments is
5 extended by the Agency.

6 When a permit applicant submits information to the Agency
7 to supplement a permit application being reviewed by the
8 Agency, the applicant shall not be required to reissue the
9 notice under this subsection.

10 (2) The Agency shall accept written comments concerning the
11 permit application that are postmarked no later than 30 days
12 after the filing of the permit application, unless the time
13 period to accept comments is extended by the Agency.

14 (3) Each applicant for a permit described in part (1) of
15 this subsection shall file a copy of the permit application
16 with the county board or governing body of the municipality in
17 which the MSWLF unit is or is proposed to be located at the
18 same time the application is submitted to the Agency. The
19 permit application filed with the county board or governing
20 body of the municipality shall include all documents submitted
21 to or to be submitted to the Agency, except trade secrets as
22 determined under Section 7.1 of this Act. The permit
23 application and other documents on file with the county board
24 or governing body of the municipality shall be made available
25 for public inspection during regular business hours at the
26 office of the county board or the governing body of the
27 municipality and may be copied upon payment of the actual cost
28 of reproduction.

29 (g) The owner or operator of a CAAPP source is not required
30 to obtain an air pollution control construction permit for the
31 construction or modification of an emission unit or activity
32 that is an insignificant activity as addressed by Title 35 of
33 the Illinois Administrative Code, Subtitle B: Air Pollution
34 Control, Chapter I: Pollution Control Board, Section 201.212,

1 which rule provides that changes in the insignificant
2 activities at a CAAPP source shall be addressed during the
3 renewal of the CAAPP permit. Provided, however, other than
4 excusing the owner or operator of a CAAPP source from the
5 requirement to obtain an air pollution control construction
6 permit for these emission units or activities, nothing in this
7 provision shall alter or affect the liability of the CAAPP
8 source for compliance with emission standards and other
9 requirements that apply to these emission units or activities,
10 either individually or in conjunction with other emission units
11 or activities constructed, modified, or located at the source.

12 (Source: P.A. 92-574, eff. 6-26-02; 93-575, eff. 1-1-04.)

13 (415 ILCS 5/39.5) (from Ch. 111 1/2, par. 1039.5)

14 Sec. 39.5. Clean Air Act Permit Program.

15 1. Definitions.

16 For purposes of this Section:

17 "Administrative permit amendment" means a permit revision
18 subject to subsection 13 of this Section.

19 "Affected source for acid deposition" means a source that
20 includes one or more affected units under Title IV of the Clean
21 Air Act.

22 "Affected States" for purposes of formal distribution of a
23 draft CAAPP permit to other States for comments prior to
24 issuance, means all States:

25 (1) Whose air quality may be affected by the source
26 covered by the draft permit and that are contiguous to
27 Illinois; or

28 (2) That are within 50 miles of the source.

29 "Affected unit for acid deposition" shall have the meaning
30 given to the term "affected unit" in the regulations
31 promulgated under Title IV of the Clean Air Act.

32 "Applicable Clean Air Act requirement" means all of the
33 following as they apply to emissions units in a source

1 (including regulations that have been promulgated or approved
2 by USEPA pursuant to the Clean Air Act which directly impose
3 requirements upon a source and other such federal requirements
4 which have been adopted by the Board. These may include
5 requirements and regulations which have future effective
6 compliance dates. Requirements and regulations will be exempt
7 if USEPA determines that such requirements need not be
8 contained in a Title V permit):

9 (1) Any standard or other requirement provided for in
10 the applicable state implementation plan approved or
11 promulgated by USEPA under Title I of the Clean Air Act
12 that implement the relevant requirements of the Clean Air
13 Act, including any revisions to the state Implementation
14 Plan promulgated in 40 CFR Part 52, Subparts A and O and
15 other subparts applicable to Illinois. For purposes of this
16 subsection (1) of this definition, "any standard or other
17 requirement" shall mean only such standards or
18 requirements directly enforceable against an individual
19 source under the Clean Air Act.

20 (2) (i) Any term or condition of any preconstruction
21 permits issued pursuant to regulations approved or
22 promulgated by USEPA under Title I of the Clean Air
23 Act, including Part C or D of the Clean Air Act.

24 (ii) Any term or condition as required pursuant to
25 Section 39.5 of any federally enforceable State
26 operating permit issued pursuant to regulations
27 approved or promulgated by USEPA under Title I of the
28 Clean Air Act, including Part C or D of the Clean Air
29 Act.

30 (3) Any standard or other requirement under Section 111
31 of the Clean Air Act, including Section 111(d).

32 (4) Any standard or other requirement under Section 112
33 of the Clean Air Act, including any requirement concerning
34 accident prevention under Section 112(r)(7) of the Clean

1 Air Act.

2 (5) Any standard or other requirement of the acid rain
3 program under Title IV of the Clean Air Act or the
4 regulations promulgated thereunder.

5 (6) Any requirements established pursuant to Section
6 504(b) or Section 114(a) (3) of the Clean Air Act.

7 (7) Any standard or other requirement governing solid
8 waste incineration, under Section 129 of the Clean Air Act.

9 (8) Any standard or other requirement for consumer and
10 commercial products, under Section 183(e) of the Clean Air
11 Act.

12 (9) Any standard or other requirement for tank vessels,
13 under Section 183(f) of the Clean Air Act.

14 (10) Any standard or other requirement of the program
15 to control air pollution from Outer Continental Shelf
16 sources, under Section 328 of the Clean Air Act.

17 (11) Any standard or other requirement of the
18 regulations promulgated to protect stratospheric ozone
19 under Title VI of the Clean Air Act, unless USEPA has
20 determined that such requirements need not be contained in
21 a Title V permit.

22 (12) Any national ambient air quality standard or
23 increment or visibility requirement under Part C of Title I
24 of the Clean Air Act, but only as it would apply to
25 temporary sources permitted pursuant to Section 504(e) of
26 the Clean Air Act.

27 "Applicable requirement" means all applicable Clean Air
28 Act requirements and any other standard, limitation, or other
29 requirement contained in this Act or regulations promulgated
30 under this Act as applicable to sources of air contaminants
31 (including requirements that have future effective compliance
32 dates).

33 "CAAPP" means the Clean Air Act Permit Program, developed
34 pursuant to Title V of the Clean Air Act.

1 "CAAPP application" means an application for a CAAPP
2 permit.

3 "CAAPP Permit" or "permit" (unless the context suggests
4 otherwise) means any permit issued, renewed, amended, modified
5 or revised pursuant to Title V of the Clean Air Act.

6 "CAAPP source" means any source for which the owner or
7 operator is required to obtain a CAAPP permit pursuant to
8 subsection 2 of this Section.

9 "Clean Air Act" means the Clean Air Act, as now and
10 hereafter amended, 42 U.S.C. 7401, et seq.

11 "Designated representative" shall have the meaning given
12 to it in Section 402(26) of the Clean Air Act and the
13 regulations promulgated thereunder which states that the term
14 'designated representative' shall mean a responsible person or
15 official authorized by the owner or operator of a unit to
16 represent the owner or operator in all matters pertaining to
17 the holding, transfer, or disposition of allowances allocated
18 to a unit, and the submission of and compliance with permits,
19 permit applications, and compliance plans for the unit.

20 "Draft CAAPP permit" means the version of a CAAPP permit
21 for which public notice and an opportunity for public comment
22 and hearing is offered by the Agency.

23 "Effective date of the CAAPP" means the date that USEPA
24 approves Illinois' CAAPP.

25 "Emission unit" means any part or activity of a stationary
26 source that emits or has the potential to emit any air
27 pollutant. This term is not meant to alter or affect the
28 definition of the term "unit" for purposes of Title IV of the
29 Clean Air Act.

30 "Federally enforceable" means enforceable by USEPA.

31 "Final permit action" means the Agency's granting with
32 conditions, refusal to grant, renewal of, or revision of a
33 CAAPP permit, the Agency's determination of incompleteness of a
34 submitted CAAPP application, or the Agency's failure to act on

1 an application for a permit, permit renewal, or permit revision
2 within the time specified in paragraph 5(j), subsection 13, or
3 subsection 14 of this Section.

4 "General permit" means a permit issued to cover numerous
5 similar sources in accordance with subsection 11 of this
6 Section.

7 "Major source" means a source for which emissions of one or
8 more air pollutants meet the criteria for major status pursuant
9 to paragraph 2(c) of this Section.

10 "Maximum achievable control technology" or "MACT" means
11 the maximum degree of reductions in emissions deemed achievable
12 under Section 112 of the Clean Air Act.

13 "Owner or operator" means any person who owns, leases,
14 operates, controls, or supervises a stationary source.

15 "Permit modification" means a revision to a CAAPP permit
16 that cannot be accomplished under the provisions for
17 administrative permit amendments under subsection 13 of this
18 Section.

19 "Permit revision" means a permit modification or
20 administrative permit amendment.

21 "Phase II" means the period of the national acid rain
22 program, established under Title IV of the Clean Air Act,
23 beginning January 1, 2000, and continuing thereafter.

24 "Phase II acid rain permit" means the portion of a CAAPP
25 permit issued, renewed, modified, or revised by the Agency
26 during Phase II for an affected source for acid deposition.

27 "Potential to emit" means the maximum capacity of a
28 stationary source to emit any air pollutant under its physical
29 and operational design. Any physical or operational limitation
30 on the capacity of a source to emit an air pollutant, including
31 air pollution control equipment and restrictions on hours of
32 operation or on the type or amount of material combusted,
33 stored, or processed, shall be treated as part of its design if
34 the limitation is enforceable by USEPA. This definition does

1 not alter or affect the use of this term for any other purposes
2 under the Clean Air Act, or the term "capacity factor" as used
3 in Title IV of the Clean Air Act or the regulations promulgated
4 thereunder.

5 "Preconstruction Permit" or "Construction Permit" means a
6 permit which is to be obtained prior to commencing or beginning
7 actual construction or modification of a source or emissions
8 unit.

9 "Proposed CAAPP permit" means the version of a CAAPP permit
10 that the Agency proposes to issue and forwards to USEPA for
11 review in compliance with applicable requirements of the Act
12 and regulations promulgated thereunder.

13 "Regulated air pollutant" means the following:

14 (1) Nitrogen oxides (NOx) or any volatile organic
15 compound.

16 (2) Any pollutant for which a national ambient air
17 quality standard has been promulgated.

18 (3) Any pollutant that is subject to any standard
19 promulgated under Section 111 of the Clean Air Act.

20 (4) Any Class I or II substance subject to a standard
21 promulgated under or established by Title VI of the Clean
22 Air Act.

23 (5) Any pollutant subject to a standard promulgated
24 under Section 112 or other requirements established under
25 Section 112 of the Clean Air Act, including Sections
26 112(g), (j) and (r).

27 (i) Any pollutant subject to requirements under
28 Section 112(j) of the Clean Air Act. Any pollutant
29 listed under Section 112(b) for which the subject
30 source would be major shall be considered to be
31 regulated 18 months after the date on which USEPA was
32 required to promulgate an applicable standard pursuant
33 to Section 112(e) of the Clean Air Act, if USEPA fails
34 to promulgate such standard.

1 (ii) Any pollutant for which the requirements of
2 Section 112(g) (2) of the Clean Air Act have been met,
3 but only with respect to the individual source subject
4 to Section 112(g) (2) requirement.

5 "Renewal" means the process by which a permit is reissued
6 at the end of its term.

7 "Responsible official" means one of the following:

8 (1) For a corporation: a president, secretary,
9 treasurer, or vice-president of the corporation in charge
10 of a principal business function, or any other person who
11 performs similar policy or decision-making functions for
12 the corporation, or a duly authorized representative of
13 such person if the representative is responsible for the
14 overall operation of one or more manufacturing,
15 production, or operating facilities applying for or
16 subject to a permit and either (i) the facilities employ
17 more than 250 persons or have gross annual sales or
18 expenditures exceeding \$25 million (in second quarter 1980
19 dollars), or (ii) the delegation of authority to such
20 representative is approved in advance by the Agency.

21 (2) For a partnership or sole proprietorship: a general
22 partner or the proprietor, respectively, or in the case of
23 a partnership in which all of the partners are
24 corporations, a duly authorized representative of the
25 partnership if the representative is responsible for the
26 overall operation of one or more manufacturing,
27 production, or operating facilities applying for or
28 subject to a permit and either (i) the facilities employ
29 more than 250 persons or have gross annual sales or
30 expenditures exceeding \$25 million (in second quarter 1980
31 dollars), or (ii) the delegation of authority to such
32 representative is approved in advance by the Agency.

33 (3) For a municipality, State, Federal, or other public
34 agency: either a principal executive officer or ranking

1 elected official. For the purposes of this part, a
2 principal executive officer of a Federal agency includes
3 the chief executive officer having responsibility for the
4 overall operations of a principal geographic unit of the
5 agency (e.g., a Regional Administrator of USEPA).

6 (4) For affected sources for acid deposition:

7 (i) The designated representative shall be the
8 "responsible official" in so far as actions,
9 standards, requirements, or prohibitions under Title
10 IV of the Clean Air Act or the regulations promulgated
11 thereunder are concerned.

12 (ii) The designated representative may also be the
13 "responsible official" for any other purposes with
14 respect to air pollution control.

15 "Section 502(b)(10) changes" means changes that contravene
16 express permit terms. "Section 502(b)(10) changes" do not
17 include changes that would violate applicable requirements or
18 contravene federally enforceable permit terms or conditions
19 that are monitoring (including test methods), recordkeeping,
20 reporting, or compliance certification requirements.

21 "Solid waste incineration unit" means a distinct operating
22 unit of any facility which combusts any solid waste material
23 from commercial or industrial establishments or the general
24 public (including single and multiple residences, hotels, and
25 motels). The term does not include incinerators or other units
26 required to have a permit under Section 3005 of the Solid Waste
27 Disposal Act. The term also does not include (A) materials
28 recovery facilities (including primary or secondary smelters)
29 which combust waste for the primary purpose of recovering
30 metals, (B) qualifying small power production facilities, as
31 defined in Section 3(17)(C) of the Federal Power Act (16 U.S.C.
32 769(17)(C)), or qualifying cogeneration facilities, as defined
33 in Section 3(18)(B) of the Federal Power Act (16 U.S.C.
34 796(18)(B)), which burn homogeneous waste (such as units which

1 burn tires or used oil, but not including refuse-derived fuel)
2 for the production of electric energy or in the case of
3 qualifying cogeneration facilities which burn homogeneous
4 waste for the production of electric energy and steam or forms
5 of useful energy (such as heat) which are used for industrial,
6 commercial, heating or cooling purposes, or (C) air curtain
7 incinerators provided that such incinerators only burn wood
8 wastes, yard waste and clean lumber and that such air curtain
9 incinerators comply with opacity limitations to be established
10 by the USEPA by rule.

11 "Source" means any stationary source (or any group of
12 stationary sources) that are located on one or more contiguous
13 or adjacent properties that are under common control of the
14 same person (or persons under common control) and that belongs
15 to a single major industrial grouping. For the purposes of
16 defining "source," a stationary source or group of stationary
17 sources shall be considered part of a single major industrial
18 grouping if all of the pollutant emitting activities at such
19 source or group of sources located on contiguous or adjacent
20 properties and under common control belong to the same Major
21 Group (i.e., all have the same two-digit code) as described in
22 the Standard Industrial Classification Manual, 1987, or such
23 pollutant emitting activities at a stationary source (or group
24 of stationary sources) located on contiguous or adjacent
25 properties and under common control constitute a support
26 facility. The determination as to whether any group of
27 stationary sources are located on contiguous or adjacent
28 properties, and/or are under common control, and/or whether the
29 pollutant emitting activities at such group of stationary
30 sources constitute a support facility shall be made on a case
31 by case basis.

32 "Stationary source" means any building, structure,
33 facility, or installation that emits or may emit any regulated
34 air pollutant or any pollutant listed under Section 112(b) of

1 the Clean Air Act.

2 "Support facility" means any stationary source (or group of
3 stationary sources) that conveys, stores, or otherwise assists
4 to a significant extent in the production of a principal
5 product at another stationary source (or group of stationary
6 sources). A support facility shall be considered to be part of
7 the same source as the stationary source (or group of
8 stationary sources) that it supports regardless of the 2-digit
9 Standard Industrial Classification code for the support
10 facility.

11 "USEPA" means the Administrator of the United States
12 Environmental Protection Agency (USEPA) or a person designated
13 by the Administrator.

14 1.1. Exclusion From the CAAPP.

15 a. An owner or operator of a source which determines
16 that the source could be excluded from the CAAPP may seek
17 such exclusion prior to the date that the CAAPP application
18 for the source is due but in no case later than 9 months
19 after the effective date of the CAAPP through the
20 imposition of federally enforceable conditions limiting
21 the "potential to emit" of the source to a level below the
22 major source threshold for that source as described in
23 paragraph 2(c) of this Section, within a State operating
24 permit issued pursuant to Section 39(a) of this Act. After
25 such date, an exclusion from the CAAPP may be sought under
26 paragraph 3(c) of this Section.

27 b. An owner or operator of a source seeking exclusion
28 from the CAAPP pursuant to paragraph (a) of this subsection
29 must submit a permit application consistent with the
30 existing State permit program which specifically requests
31 such exclusion through the imposition of such federally
32 enforceable conditions.

33 c. Upon such request, if the Agency determines that the

1 owner or operator of a source has met the requirements for
2 exclusion pursuant to paragraph (a) of this subsection and
3 other applicable requirements for permit issuance under
4 Section 39(a) of this Act, the Agency shall issue a State
5 operating permit for such source under Section 39(a) of
6 this Act, as amended, and regulations promulgated
7 thereunder with federally enforceable conditions limiting
8 the "potential to emit" of the source to a level below the
9 major source threshold for that source as described in
10 paragraph 2(c) of this Section.

11 d. The Agency shall provide an owner or operator of a
12 source which may be excluded from the CAAPP pursuant to
13 this subsection with reasonable notice that the owner or
14 operator may seek such exclusion.

15 e. The Agency shall provide such sources with the
16 necessary permit application forms.

17 2. Applicability.

18 a. Sources subject to this Section shall include:

19 i. Any major source as defined in paragraph (c) of
20 this subsection.

21 ii. Any source subject to a standard or other
22 requirements promulgated under Section 111 (New Source
23 Performance Standards) or Section 112 (Hazardous Air
24 Pollutants) of the Clean Air Act, except that a source
25 is not required to obtain a permit solely because it is
26 subject to regulations or requirements under Section
27 112(r) of the Clean Air Act.

28 iii. Any affected source for acid deposition, as
29 defined in subsection 1 of this Section.

30 iv. Any other source subject to this Section under
31 the Clean Air Act or regulations promulgated
32 thereunder, or applicable Board regulations.

33 b. Sources exempted from this Section shall include:

1 i. All sources listed in paragraph (a) of this
2 subsection which are not major sources, affected
3 sources for acid deposition or solid waste
4 incineration units required to obtain a permit
5 pursuant to Section 129(e) of the Clean Air Act, until
6 the source is required to obtain a CAAPP permit
7 pursuant to the Clean Air Act or regulations
8 promulgated thereunder.

9 ii. Nonmajor sources subject to a standard or other
10 requirements subsequently promulgated by USEPA under
11 Section 111 or 112 of the Clean Air Act which are
12 determined by USEPA to be exempt at the time a new
13 standard is promulgated.

14 iii. All sources and source categories that would
15 be required to obtain a permit solely because they are
16 subject to Part 60, Subpart AAA - Standards of
17 Performance for New Residential Wood Heaters (40 CFR
18 Part 60).

19 iv. All sources and source categories that would be
20 required to obtain a permit solely because they are
21 subject to Part 61, Subpart M - National Emission
22 Standard for Hazardous Air Pollutants for Asbestos,
23 Section 61.145 (40 CFR Part 61).

24 v. Any other source categories exempted by USEPA
25 regulations pursuant to Section 502(a) of the Clean Air
26 Act.

27 c. For purposes of this Section the term "major source"
28 means any source that is:

29 i. A major source under Section 112 of the Clean
30 Air Act, which is defined as:

31 A. For pollutants other than radionuclides,
32 any stationary source or group of stationary
33 sources located within a contiguous area and under
34 common control that emits or has the potential to

1 emit, in the aggregate, 10 tons per year (tpy) or
2 more of any hazardous air pollutant which has been
3 listed pursuant to Section 112(b) of the Clean Air
4 Act, 25 tpy or more of any combination of such
5 hazardous air pollutants, or such lesser quantity
6 as USEPA may establish by rule. Notwithstanding
7 the preceding sentence, emissions from any oil or
8 gas exploration or production well (with its
9 associated equipment) and emissions from any
10 pipeline compressor or pump station shall not be
11 aggregated with emissions from other similar
12 units, whether or not such units are in a
13 contiguous area or under common control, to
14 determine whether such stations are major sources.

15 B. For radionuclides, "major source" shall
16 have the meaning specified by the USEPA by rule.

17 ii. A major stationary source of air pollutants, as
18 defined in Section 302 of the Clean Air Act, that
19 directly emits or has the potential to emit, 100 tpy or
20 more of any air pollutant (including any major source
21 of fugitive emissions of any such pollutant, as
22 determined by rule by USEPA). For purposes of this
23 subsection, "fugitive emissions" means those emissions
24 which could not reasonably pass through a stack,
25 chimney, vent, or other functionally-equivalent
26 opening. The fugitive emissions of a stationary source
27 shall not be considered in determining whether it is a
28 major stationary source for the purposes of Section
29 302(j) of the Clean Air Act, unless the source belongs
30 to one of the following categories of stationary
31 source:

32 A. Coal cleaning plants (with thermal dryers).

33 B. Kraft pulp mills.

34 C. Portland cement plants.

- 1 D. Primary zinc smelters.
- 2 E. Iron and steel mills.
- 3 F. Primary aluminum ore reduction plants.
- 4 G. Primary copper smelters.
- 5 H. Municipal incinerators capable of charging
6 more than 250 tons of refuse per day.
- 7 I. Hydrofluoric, sulfuric, or nitric acid
8 plants.
- 9 J. Petroleum refineries.
- 10 K. Lime plants.
- 11 L. Phosphate rock processing plants.
- 12 M. Coke oven batteries.
- 13 N. Sulfur recovery plants.
- 14 O. Carbon black plants (furnace process).
- 15 P. Primary lead smelters.
- 16 Q. Fuel conversion plants.
- 17 R. Sintering plants.
- 18 S. Secondary metal production plants.
- 19 T. Chemical process plants.
- 20 U. Fossil-fuel boilers (or combination
21 thereof) totaling more than 250 million British
22 thermal units per hour heat input.
- 23 V. Petroleum storage and transfer units with a
24 total storage capacity exceeding 300,000 barrels.
- 25 W. Taconite ore processing plants.
- 26 X. Glass fiber processing plants.
- 27 Y. Charcoal production plants.
- 28 Z. Fossil fuel-fired steam electric plants of
29 more than 250 million British thermal units per
30 hour heat input.
- 31 AA. All other stationary source categories,
32 which as of August 7, 1980 are being regulated by a
33 standard promulgated under Section 111 or 112 of
34 the Clean Air Act, ~~but only with respect to those~~

1 ~~air pollutants that have been regulated for that~~
2 ~~category.~~

3 BB. Any other stationary source category
4 designated by USEPA by rule.

5 iii. A major stationary source as defined in part D
6 of Title I of the Clean Air Act including:

7 A. For ozone nonattainment areas, sources with
8 the potential to emit 100 tons or more per year of
9 volatile organic compounds or oxides of nitrogen
10 in areas classified as "marginal" or "moderate",
11 50 tons or more per year in areas classified as
12 "serious", 25 tons or more per year in areas
13 classified as "severe", and 10 tons or more per
14 year in areas classified as "extreme"; except that
15 the references in this clause to 100, 50, 25, and
16 10 tons per year of nitrogen oxides shall not apply
17 with respect to any source for which USEPA has made
18 a finding, under Section 182(f)(1) or (2) of the
19 Clean Air Act, that requirements otherwise
20 applicable to such source under Section 182(f) of
21 the Clean Air Act do not apply. Such sources shall
22 remain subject to the major source criteria of
23 paragraph 2(c)(ii) of this subsection.

24 B. For ozone transport regions established
25 pursuant to Section 184 of the Clean Air Act,
26 sources with the potential to emit 50 tons or more
27 per year of volatile organic compounds (VOCs).

28 C. For carbon monoxide nonattainment areas (1)
29 that are classified as "serious", and (2) in which
30 stationary sources contribute significantly to
31 carbon monoxide levels as determined under rules
32 issued by USEPA, sources with the potential to emit
33 50 tons or more per year of carbon monoxide.

34 D. For particulate matter (PM-10)

1 nonattainment areas classified as "serious",
2 sources with the potential to emit 70 tons or more
3 per year of PM-10.

4 3. Agency Authority To Issue CAAPP Permits and Federally
5 Enforceable State Operating Permits.

6 a. The Agency shall issue CAAPP permits under this
7 Section consistent with the Clean Air Act and regulations
8 promulgated thereunder and this Act and regulations
9 promulgated thereunder.

10 b. The Agency shall issue CAAPP permits for fixed terms
11 of 5 years, except CAAPP permits issued for solid waste
12 incineration units combusting municipal waste which shall
13 be issued for fixed terms of 12 years and except CAAPP
14 permits for affected sources for acid deposition which
15 shall be issued for initial terms to expire on December 31,
16 1999, and for fixed terms of 5 years thereafter.

17 c. The Agency shall have the authority to issue a State
18 operating permit for a source under Section 39(a) of this
19 Act, as amended, and regulations promulgated thereunder,
20 which includes federally enforceable conditions limiting
21 the "potential to emit" of the source to a level below the
22 major source threshold for that source as described in
23 paragraph 2(c) of this Section, thereby excluding the
24 source from the CAAPP, when requested by the applicant
25 pursuant to paragraph 5(u) of this Section. The public
26 notice requirements of this Section applicable to CAAPP
27 permits shall also apply to the initial issuance of permits
28 under this paragraph.

29 d. For purposes of this Act, a permit issued by USEPA
30 under Section 505 of the Clean Air Act, as now and
31 hereafter amended, shall be deemed to be a permit issued by
32 the Agency pursuant to Section 39.5 of this Act.

1 4. Transition.

2 a. An owner or operator of a CAAPP source shall not be
3 required to renew an existing State operating permit for
4 any emission unit at such CAAPP source once a CAAPP
5 application timely submitted prior to expiration of the
6 State operating permit has been deemed complete. For
7 purposes other than permit renewal, the obligation upon the
8 owner or operator of a CAAPP source to obtain a State
9 operating permit is not removed upon submittal of the
10 complete CAAPP permit application. An owner or operator of
11 a CAAPP source seeking to make a modification to a source
12 prior to the issuance of its CAAPP permit shall be required
13 to obtain a construction and/or operating permit as
14 required for such modification in accordance with the State
15 permit program under Section 39(a) of this Act, as amended,
16 and regulations promulgated thereunder. The application
17 for such construction and/or operating permit shall be
18 considered an amendment to the CAAPP application submitted
19 for such source.

20 b. An owner or operator of a CAAPP source shall
21 continue to operate in accordance with the terms and
22 conditions of its applicable State operating permit
23 notwithstanding the expiration of the State operating
24 permit until the source's CAAPP permit has been issued.

25 c. An owner or operator of a CAAPP source shall submit
26 its initial CAAPP application to the Agency no later than
27 12 months after the effective date of the CAAPP. The Agency
28 may request submittal of initial CAAPP applications during
29 this 12 month period according to a schedule set forth
30 within Agency procedures, however, in no event shall the
31 Agency require such submittal earlier than 3 months after
32 such effective date of the CAAPP. An owner or operator may
33 voluntarily submit its initial CAAPP application prior to
34 the date required within this paragraph or applicable

1 procedures, if any, subsequent to the date the Agency
2 submits the CAAPP to USEPA for approval.

3 d. The Agency shall act on initial CAAPP applications
4 in accordance with subsection 5(j) of this Section.

5 e. For purposes of this Section, the term "initial
6 CAAPP application" shall mean the first CAAPP application
7 submitted for a source existing as of the effective date of
8 the CAAPP.

9 f. The Agency shall provide owners or operators of
10 CAAPP sources with at least three months advance notice of
11 the date on which their applications are required to be
12 submitted. In determining which sources shall be subject to
13 early submittal, the Agency shall include among its
14 considerations the complexity of the permit application,
15 and the burden that such early submittal will have on the
16 source.

17 g. The CAAPP permit shall upon becoming effective
18 supersede the State operating permit.

19 h. The Agency shall have the authority to adopt
20 procedural rules, in accordance with the Illinois
21 Administrative Procedure Act, as the Agency deems
22 necessary, to implement this subsection.

23 5. Applications and Completeness.

24 a. An owner or operator of a CAAPP source shall submit
25 its complete CAAPP application consistent with the Act and
26 applicable regulations.

27 b. An owner or operator of a CAAPP source shall submit
28 a single complete CAAPP application covering all emission
29 units at that source.

30 c. To be deemed complete, a CAAPP application must
31 provide all information, as requested in Agency
32 application forms, sufficient to evaluate the subject
33 source and its application and to determine all applicable

1 requirements, pursuant to the Clean Air Act, and
2 regulations thereunder, this Act and regulations
3 thereunder. Such Agency application forms shall be
4 finalized and made available prior to the date on which any
5 CAAPP application is required.

6 d. An owner or operator of a CAAPP source shall submit,
7 as part of its complete CAAPP application, a compliance
8 plan, including a schedule of compliance, describing how
9 each emission unit will comply with all applicable
10 requirements. Any such schedule of compliance shall be
11 supplemental to, and shall not sanction noncompliance
12 with, the applicable requirements on which it is based.

13 e. Each submitted CAAPP application shall be certified
14 for truth, accuracy, and completeness by a responsible
15 official in accordance with applicable regulations.

16 f. The Agency shall provide notice to a CAAPP applicant
17 as to whether a submitted CAAPP application is complete.
18 Unless the Agency notifies the applicant of
19 incompleteness, within 60 days of receipt of the CAAPP
20 application, the application shall be deemed complete. The
21 Agency may request additional information as needed to make
22 the completeness determination. The Agency may to the
23 extent practicable provide the applicant with a reasonable
24 opportunity to correct deficiencies prior to a final
25 determination of completeness.

26 g. If after the determination of completeness the
27 Agency finds that additional information is necessary to
28 evaluate or take final action on the CAAPP application, the
29 Agency may request in writing such information from the
30 source with a reasonable deadline for response.

31 h. If the owner or operator of a CAAPP source submits a
32 timely and complete CAAPP application, the source's
33 failure to have a CAAPP permit shall not be a violation of
34 this Section until the Agency takes final action on the

1 submitted CAAPP application, provided, however, where the
2 applicant fails to submit the requested information under
3 paragraph 5(g) within the time frame specified by the
4 Agency, this protection shall cease to apply.

5 i. Any applicant who fails to submit any relevant facts
6 necessary to evaluate the subject source and its CAAPP
7 application or who has submitted incorrect information in a
8 CAAPP application shall, upon becoming aware of such
9 failure or incorrect submittal, submit supplementary facts
10 or correct information to the Agency. In addition, an
11 applicant shall provide to the Agency additional
12 information as necessary to address any requirements which
13 become applicable to the source subsequent to the date the
14 applicant submitted its complete CAAPP application but
15 prior to release of the draft CAAPP permit.

16 j. The Agency shall issue or deny the CAAPP permit
17 within 18 months after the date of receipt of the complete
18 CAAPP application, with the following exceptions: (i)
19 permits for affected sources for acid deposition shall be
20 issued or denied within 6 months after receipt of a
21 complete application in accordance with subsection 17 of
22 this Section; (ii) the Agency shall act on initial CAAPP
23 applications within 24 months after the date of receipt of
24 the complete CAAPP application; (iii) the Agency shall act
25 on complete applications containing early reduction
26 demonstrations under Section 112(i) (5) of the Clean Air Act
27 within 9 months of receipt of the complete CAAPP
28 application.

29 Where the Agency does not take final action on the
30 permit within the required time period, the permit shall
31 not be deemed issued; rather, the failure to act shall be
32 treated as a final permit action for purposes of judicial
33 review pursuant to Sections 40.2 and 41 of this Act.

34 k. The submittal of a complete CAAPP application shall

1 not affect the requirement that any source have a
2 preconstruction permit under Title I of the Clean Air Act.

3 l. Unless a timely and complete renewal application has
4 been submitted consistent with this subsection, a CAAPP
5 source operating upon the expiration of its CAAPP permit
6 shall be deemed to be operating without a CAAPP permit.
7 Such operation is prohibited under this Act.

8 m. Permits being renewed shall be subject to the same
9 procedural requirements, including those for public
10 participation and federal review and objection, that apply
11 to original permit issuance.

12 n. For purposes of permit renewal, a timely application
13 is one that is submitted no less than 9 months prior to the
14 date of permit expiration.

15 o. The terms and conditions of a CAAPP permit shall
16 remain in effect until the issuance of a CAAPP renewal
17 permit provided a timely and complete CAAPP application has
18 been submitted.

19 p. The owner or operator of a CAAPP source seeking a
20 permit shield pursuant to paragraph 7(j) of this Section
21 shall request such permit shield in the CAAPP application
22 regarding that source.

23 q. The Agency shall make available to the public all
24 documents submitted by the applicant to the Agency,
25 including each CAAPP application, compliance plan
26 (including the schedule of compliance), and emissions or
27 compliance monitoring report, with the exception of
28 information entitled to confidential treatment pursuant to
29 Section 7 of this Act.

30 r. The Agency shall use the standardized forms required
31 under Title IV of the Clean Air Act and regulations
32 promulgated thereunder for affected sources for acid
33 deposition.

34 s. An owner or operator of a CAAPP source may include

1 within its CAAPP application a request for permission to
2 operate during a startup, malfunction, or breakdown
3 consistent with applicable Board regulations.

4 t. An owner or operator of a CAAPP source, in order to
5 utilize the operational flexibility provided under
6 paragraph 7(1) of this Section, must request such use and
7 provide the necessary information within its CAAPP
8 application.

9 u. An owner or operator of a CAAPP source which seeks
10 exclusion from the CAAPP through the imposition of
11 federally enforceable conditions, pursuant to paragraph
12 3(c) of this Section, must request such exclusion within a
13 CAAPP application submitted consistent with this
14 subsection on or after the date that the CAAPP application
15 for the source is due. Prior to such date, but in no case
16 later than 9 months after the effective date of the CAAPP,
17 such owner or operator may request the imposition of
18 federally enforceable conditions pursuant to paragraph
19 1.1(b) of this Section.

20 v. CAAPP applications shall contain accurate
21 information on allowable emissions to implement the fee
22 provisions of subsection 18 of this Section.

23 w. An owner or operator of a CAAPP source shall submit
24 within its CAAPP application emissions information
25 regarding all regulated air pollutants emitted at that
26 source consistent with applicable Agency procedures.
27 Emissions information regarding insignificant activities
28 or emission levels, as determined by the Agency pursuant to
29 Board regulations, may be submitted as a list within the
30 CAAPP application. The Agency shall propose regulations to
31 the Board defining insignificant activities or emission
32 levels, consistent with federal regulations, if any, no
33 later than 18 months after the effective date of this
34 amendatory Act of 1992, consistent with Section 112(n)(1)

1 of the Clean Air Act. The Board shall adopt final
2 regulations defining insignificant activities or emission
3 levels no later than 9 months after the date of the
4 Agency's proposal.

5 x. The owner or operator of a new CAAPP source shall
6 submit its complete CAAPP application consistent with this
7 subsection within 12 months after commencing operation of
8 such source. The owner or operator of an existing source
9 that has been excluded from the provisions of this Section
10 under subsection 1.1 or subsection 3(c) of this Section and
11 that becomes subject to the CAAPP solely due to a change in
12 operation at the source shall submit its complete CAAPP
13 application consistent with this subsection at least 180
14 days before commencing operation in accordance with the
15 change in operation.

16 y. The Agency shall have the authority to adopt
17 procedural rules, in accordance with the Illinois
18 Administrative Procedure Act, as the Agency deems
19 necessary to implement this subsection.

20 6. Prohibitions.

21 a. It shall be unlawful for any person to violate any
22 terms or conditions of a permit issued under this Section,
23 to operate any CAAPP source except in compliance with a
24 permit issued by the Agency under this Section or to
25 violate any other applicable requirements. All terms and
26 conditions of a permit issued under this Section are
27 enforceable by USEPA and citizens under the Clean Air Act,
28 except those, if any, that are specifically designated as
29 not being federally enforceable in the permit pursuant to
30 paragraph 7(m) of this Section.

31 b. After the applicable CAAPP permit or renewal
32 application submittal date, as specified in subsection 5 of
33 this Section, no person shall operate a CAAPP source

1 without a CAAPP permit unless the complete CAAPP permit or
2 renewal application for such source has been timely
3 submitted to the Agency.

4 c. No owner or operator of a CAAPP source shall cause
5 or threaten or allow the continued operation of an emission
6 source during malfunction or breakdown of the emission
7 source or related air pollution control equipment if such
8 operation would cause a violation of the standards or
9 limitations applicable to the source, unless the CAAPP
10 permit granted to the source provides for such operation
11 consistent with this Act and applicable Board regulations.

12 7. Permit Content.

13 a. All CAAPP permits shall contain emission
14 limitations and standards and other enforceable terms and
15 conditions, including but not limited to operational
16 requirements, and schedules for achieving compliance at
17 the earliest reasonable date, which are or will be required
18 to accomplish the purposes and provisions of this Act and
19 to assure compliance with all applicable requirements.

20 b. The Agency shall include among such conditions
21 applicable monitoring, reporting, record keeping and
22 compliance certification requirements, as authorized by
23 paragraphs d, e, and f of this subsection, that the Agency
24 deems necessary to assure compliance with the Clean Air
25 Act, the regulations promulgated thereunder, this Act, and
26 applicable Board regulations. When monitoring, reporting,
27 record keeping, and compliance certification requirements
28 are specified within the Clean Air Act, regulations
29 promulgated thereunder, this Act, or applicable
30 regulations, such requirements shall be included within
31 the CAAPP permit. The Board shall have authority to
32 promulgate additional regulations where necessary to
33 accomplish the purposes of the Clean Air Act, this Act, and

1 regulations promulgated thereunder.

2 c. The Agency shall assure, within such conditions, the
3 use of terms, test methods, units, averaging periods, and
4 other statistical conventions consistent with the
5 applicable emission limitations, standards, and other
6 requirements contained in the permit.

7 d. To meet the requirements of this subsection with
8 respect to monitoring, the permit shall:

9 i. Incorporate and identify all applicable
10 emissions monitoring and analysis procedures or test
11 methods required under the Clean Air Act, regulations
12 promulgated thereunder, this Act, and applicable Board
13 regulations, including any procedures and methods
14 promulgated by USEPA pursuant to Section 504(b) or
15 Section 114 (a) (3) of the Clean Air Act.

16 ii. Where the applicable requirement does not
17 require periodic testing or instrumental or
18 noninstrumental monitoring (which may consist of
19 recordkeeping designed to serve as monitoring),
20 require periodic monitoring sufficient to yield
21 reliable data from the relevant time period that is
22 representative of the source's compliance with the
23 permit, as reported pursuant to paragraph (f) of this
24 subsection. The Agency may determine that
25 recordkeeping requirements are sufficient to meet the
26 requirements of this subparagraph.

27 iii. As necessary, specify requirements concerning
28 the use, maintenance, and when appropriate,
29 installation of monitoring equipment or methods.

30 e. To meet the requirements of this subsection with
31 respect to record keeping, the permit shall incorporate and
32 identify all applicable recordkeeping requirements and
33 require, where applicable, the following:

34 i. Records of required monitoring information that

1 include the following:

2 A. The date, place and time of sampling or
3 measurements.

4 B. The date(s) analyses were performed.

5 C. The company or entity that performed the
6 analyses.

7 D. The analytical techniques or methods used.

8 E. The results of such analyses.

9 F. The operating conditions as existing at the
10 time of sampling or measurement.

11 ii. Retention of records of all monitoring data
12 and support information for a period of at least 5
13 years from the date of the monitoring sample,
14 measurement, report, or application. Support
15 information includes all calibration and maintenance
16 records, original strip-chart recordings for
17 continuous monitoring instrumentation, and copies of
18 all reports required by the permit.

19 f. To meet the requirements of this subsection with
20 respect to reporting, the permit shall incorporate and
21 identify all applicable reporting requirements and require
22 the following:

23 i. Submittal of reports of any required monitoring
24 every 6 months. More frequent submittals may be
25 requested by the Agency if such submittals are
26 necessary to assure compliance with this Act or
27 regulations promulgated by the Board thereunder. All
28 instances of deviations from permit requirements must
29 be clearly identified in such reports. All required
30 reports must be certified by a responsible official
31 consistent with subsection 5 of this Section.

32 ii. Prompt reporting of deviations from permit
33 requirements, including those attributable to upset
34 conditions as defined in the permit, the probable cause

1 of such deviations, and any corrective actions or
2 preventive measures taken.

3 g. Each CAAPP permit issued under subsection 10 of this
4 Section shall include a condition prohibiting emissions
5 exceeding any allowances that the source lawfully holds
6 under Title IV of the Clean Air Act or the regulations
7 promulgated thereunder, consistent with subsection 17 of
8 this Section and applicable regulations, if any.

9 h. All CAAPP permits shall state that, where another
10 applicable requirement of the Clean Air Act is more
11 stringent than any applicable requirement of regulations
12 promulgated under Title IV of the Clean Air Act, both
13 provisions shall be incorporated into the permit and shall
14 be State and federally enforceable.

15 i. Each CAAPP permit issued under subsection 10 of this
16 Section shall include a severability clause to ensure the
17 continued validity of the various permit requirements in
18 the event of a challenge to any portions of the permit.

19 j. The following shall apply with respect to owners or
20 operators requesting a permit shield:

21 i. The Agency shall include in a CAAPP permit, when
22 requested by an applicant pursuant to paragraph 5(p) of
23 this Section, a provision stating that compliance with
24 the conditions of the permit shall be deemed compliance
25 with applicable requirements which are applicable as
26 of the date of release of the proposed permit, provided
27 that:

28 A. The applicable requirement is specifically
29 identified within the permit; or

30 B. The Agency in acting on the CAAPP
31 application or revision determines in writing that
32 other requirements specifically identified are not
33 applicable to the source, and the permit includes
34 that determination or a concise summary thereof.

1 ii. The permit shall identify the requirements for
2 which the source is shielded. The shield shall not
3 extend to applicable requirements which are
4 promulgated after the date of release of the proposed
5 permit unless the permit has been modified to reflect
6 such new requirements.

7 iii. A CAAPP permit which does not expressly
8 indicate the existence of a permit shield shall not
9 provide such a shield.

10 iv. Nothing in this paragraph or in a CAAPP permit
11 shall alter or affect the following:

12 A. The provisions of Section 303 (emergency
13 powers) of the Clean Air Act, including USEPA's
14 authority under that section.

15 B. The liability of an owner or operator of a
16 source for any violation of applicable
17 requirements prior to or at the time of permit
18 issuance.

19 C. The applicable requirements of the acid
20 rain program consistent with Section 408(a) of the
21 Clean Air Act.

22 D. The ability of USEPA to obtain information
23 from a source pursuant to Section 114
24 (inspections, monitoring, and entry) of the Clean
25 Air Act.

26 k. Each CAAPP permit shall include an emergency
27 provision providing an affirmative defense of emergency to
28 an action brought for noncompliance with technology-based
29 emission limitations under a CAAPP permit if the following
30 conditions are met through properly signed,
31 contemporaneous operating logs, or other relevant
32 evidence:

33 i. An emergency occurred and the permittee can
34 identify the cause(s) of the emergency.

1 ii. The permitted facility was at the time being
2 properly operated.

3 iii. The permittee submitted notice of the
4 emergency to the Agency within 2 working days of the
5 time when emission limitations were exceeded due to the
6 emergency. This notice must contain a detailed
7 description of the emergency, any steps taken to
8 mitigate emissions, and corrective actions taken.

9 iv. During the period of the emergency the
10 permittee took all reasonable steps to minimize levels
11 of emissions that exceeded the emission limitations,
12 standards, or requirements in the permit.

13 For purposes of this subsection, "emergency" means any
14 situation arising from sudden and reasonably unforeseeable
15 events beyond the control of the source, such as an act of
16 God, that requires immediate corrective action to restore
17 normal operation, and that causes the source to exceed a
18 technology-based emission limitation under the permit, due
19 to unavoidable increases in emissions attributable to the
20 emergency. An emergency shall not include noncompliance to
21 the extent caused by improperly designed equipment, lack of
22 preventative maintenance, careless or improper operation,
23 or operation error.

24 In any enforcement proceeding, the permittee seeking
25 to establish the occurrence of an emergency has the burden
26 of proof. This provision is in addition to any emergency or
27 upset provision contained in any applicable requirement.
28 This provision does not relieve a permittee of any
29 reporting obligations under existing federal or state laws
30 or regulations.

31 1. The Agency shall include in each permit issued under
32 subsection 10 of this Section:

33 i. Terms and conditions for reasonably anticipated
34 operating scenarios identified by the source in its

1 application. The permit terms and conditions for each
2 such operating scenario shall meet all applicable
3 requirements and the requirements of this Section.

4 A. Under this subparagraph, the source must
5 record in a log at the permitted facility a record
6 of the scenario under which it is operating
7 contemporaneously with making a change from one
8 operating scenario to another.

9 B. The permit shield described in paragraph
10 7(j) of this Section shall extend to all terms and
11 conditions under each such operating scenario.

12 ii. Where requested by an applicant, all terms and
13 conditions allowing for trading of emissions increases
14 and decreases between different emission units at the
15 CAAPP source, to the extent that the applicable
16 requirements provide for trading of such emissions
17 increases and decreases without a case-by-case
18 approval of each emissions trade. Such terms and
19 conditions:

20 A. Shall include all terms required under this
21 subsection to determine compliance;

22 B. Must meet all applicable requirements;

23 C. Shall extend the permit shield described in
24 paragraph 7(j) of this Section to all terms and
25 conditions that allow such increases and decreases
26 in emissions.

27 m. The Agency shall specifically designate as not being
28 federally enforceable under the Clean Air Act any terms and
29 conditions included in the permit that are not specifically
30 required under the Clean Air Act or federal regulations
31 promulgated thereunder. Terms or conditions so designated
32 shall be subject to all applicable state requirements,
33 except the requirements of subsection 7 (other than this
34 paragraph, paragraph q of subsection 7, subsections 8

1 through 11, and subsections 13 through 16 of this Section.
2 The Agency shall, however, include such terms and
3 conditions in the CAAPP permit issued to the source.

4 n. Each CAAPP permit issued under subsection 10 of this
5 Section shall specify and reference the origin of and
6 authority for each term or condition, and identify any
7 difference in form as compared to the applicable
8 requirement upon which the term or condition is based.

9 o. Each CAAPP permit issued under subsection 10 of this
10 Section shall include provisions stating the following:

11 i. Duty to comply. The permittee must comply with
12 all terms and conditions of the CAAPP permit. Any
13 permit noncompliance constitutes a violation of the
14 Clean Air Act and the Act, and is grounds for any or
15 all of the following: enforcement action; permit
16 termination, revocation and reissuance, or
17 modification; or denial of a permit renewal
18 application.

19 ii. Need to halt or reduce activity not a defense.
20 It shall not be a defense for a permittee in an
21 enforcement action that it would have been necessary to
22 halt or reduce the permitted activity in order to
23 maintain compliance with the conditions of this
24 permit.

25 iii. Permit actions. The permit may be modified,
26 revoked, reopened, and reissued, or terminated for
27 cause in accordance with the applicable subsections of
28 Section 39.5 of this Act. The filing of a request by
29 the permittee for a permit modification, revocation
30 and reissuance, or termination, or of a notification of
31 planned changes or anticipated noncompliance does not
32 stay any permit condition.

33 iv. Property rights. The permit does not convey any
34 property rights of any sort, or any exclusive

1 privilege.

2 v. Duty to provide information. The permittee
3 shall furnish to the Agency within a reasonable time
4 specified by the Agency any information that the Agency
5 may request in writing to determine whether cause
6 exists for modifying, revoking and reissuing, or
7 terminating the permit or to determine compliance with
8 the permit. Upon request, the permittee shall also
9 furnish to the Agency copies of records required to be
10 kept by the permit or, for information claimed to be
11 confidential, the permittee may furnish such records
12 directly to USEPA along with a claim of
13 confidentiality.

14 vi. Duty to pay fees. The permittee must pay fees
15 to the Agency consistent with the fee schedule approved
16 pursuant to subsection 18 of this Section, and submit
17 any information relevant thereto.

18 vii. Emissions trading. No permit revision shall
19 be required for increases in emissions allowed under
20 any approved economic incentives, marketable permits,
21 emissions trading, and other similar programs or
22 processes for changes that are provided for in the
23 permit and that are authorized by the applicable
24 requirement.

25 p. Each CAAPP permit issued under subsection 10 of this
26 Section shall contain the following elements with respect
27 to compliance:

28 i. Compliance certification, testing, monitoring,
29 reporting, and record keeping requirements sufficient
30 to assure compliance with the terms and conditions of
31 the permit. Any document (including reports) required
32 by a CAAPP permit shall contain a certification by a
33 responsible official that meets the requirements of
34 subsection 5 of this Section and applicable

1 regulations.

2 ii. Inspection and entry requirements that
3 necessitate that, upon presentation of credentials and
4 other documents as may be required by law and in
5 accordance with constitutional limitations, the
6 permittee shall allow the Agency, or an authorized
7 representative to perform the following:

8 A. Enter upon the permittee's premises where a
9 CAAPP source is located or emissions-related
10 activity is conducted, or where records must be
11 kept under the conditions of the permit.

12 B. Have access to and copy, at reasonable
13 times, any records that must be kept under the
14 conditions of the permit.

15 C. Inspect at reasonable times any facilities,
16 equipment (including monitoring and air pollution
17 control equipment), practices, or operations
18 regulated or required under the permit.

19 D. Sample or monitor any substances or
20 parameters at any location:

21 1. As authorized by the Clean Air Act, at
22 reasonable times, for the purposes of assuring
23 compliance with the CAAPP permit or applicable
24 requirements; or

25 2. As otherwise authorized by this Act.

26 iii. A schedule of compliance consistent with
27 subsection 5 of this Section and applicable
28 regulations.

29 iv. Progress reports consistent with an applicable
30 schedule of compliance pursuant to paragraph 5(d) of
31 this Section and applicable regulations to be
32 submitted semiannually, or more frequently if the
33 Agency determines that such more frequent submittals
34 are necessary for compliance with the Act or

1 regulations promulgated by the Board thereunder. Such
2 progress reports shall contain the following:

3 A. Required dates for achieving the
4 activities, milestones, or compliance required by
5 the schedule of compliance and dates when such
6 activities, milestones or compliance were
7 achieved.

8 B. An explanation of why any dates in the
9 schedule of compliance were not or will not be met,
10 and any preventive or corrective measures adopted.

11 v. Requirements for compliance certification with
12 terms and conditions contained in the permit,
13 including emission limitations, standards, or work
14 practices. Permits shall include each of the
15 following:

16 A. The frequency (annually or more frequently
17 as specified in any applicable requirement or by
18 the Agency pursuant to written procedures) of
19 submissions of compliance certifications.

20 B. A means for assessing or monitoring the
21 compliance of the source with its emissions
22 limitations, standards, and work practices.

23 C. A requirement that the compliance
24 certification include the following:

25 1. The identification of each term or
26 condition contained in the permit that is the
27 basis of the certification.

28 2. The compliance status.

29 3. Whether compliance was continuous or
30 intermittent.

31 4. The method(s) used for determining the
32 compliance status of the source, both
33 currently and over the reporting period
34 consistent with subsection 7 of Section 39.5 of

1 the Act.

2 D. A requirement that all compliance
3 certifications be submitted to USEPA as well as to
4 the Agency.

5 E. Additional requirements as may be specified
6 pursuant to Sections 114(a)(3) and 504(b) of the
7 Clean Air Act.

8 F. Other provisions as the Agency may require.

9 q. If the owner or operator of CAAPP source can
10 demonstrate in its CAAPP application, including an
11 application for a significant modification, that an
12 alternative emission limit would be equivalent to that
13 contained in the applicable Board regulations, the Agency
14 shall include the alternative emission limit in the CAAPP
15 permit, which shall supersede the emission limit set forth
16 in the applicable Board regulations, and shall include
17 conditions that insure that the resulting emission limit is
18 quantifiable, accountable, enforceable, and based on
19 replicable procedures.

20 8. Public Notice; Affected State Review.

21 a. The Agency shall provide notice to the public,
22 including an opportunity for public comment and a hearing,
23 on each draft CAAPP permit for issuance, renewal or
24 significant modification, subject to Sections 7(a) and 7.1
25 of this Act.

26 b. The Agency shall prepare a draft CAAPP permit and a
27 statement that sets forth the legal and factual basis for
28 the draft CAAPP permit conditions, including references to
29 the applicable statutory or regulatory provisions. The
30 Agency shall provide this statement to any person who
31 requests it.

32 c. The Agency shall give notice of each draft CAAPP
33 permit to the applicant and to any affected State on or
34 before the time that the Agency has provided notice to the

1 public, except as otherwise provided in this Act.

2 d. The Agency, as part of its submittal of a proposed
3 permit to USEPA (or as soon as possible after the submittal
4 for minor permit modification procedures allowed under
5 subsection 14 of this Section), shall notify USEPA and any
6 affected State in writing of any refusal of the Agency to
7 accept all of the recommendations for the proposed permit
8 that an affected State submitted during the public or
9 affected State review period. The notice shall include the
10 Agency's reasons for not accepting the recommendations.
11 The Agency is not required to accept recommendations that
12 are not based on applicable requirements or the
13 requirements of this Section.

14 e. The Agency shall make available to the public any
15 CAAPP permit application, compliance plan (including the
16 schedule of compliance), CAAPP permit, and emissions or
17 compliance monitoring report. If an owner or operator of a
18 CAAPP source is required to submit information entitled to
19 protection from disclosure under Section 7(a) or Section
20 7.1 of this Act, the owner or operator shall submit such
21 information separately. The requirements of Section 7(a)
22 or Section 7.1 of this Act shall apply to such information,
23 which shall not be included in a CAAPP permit unless
24 required by law. The contents of a CAAPP permit shall not
25 be entitled to protection under Section 7(a) or Section 7.1
26 of this Act.

27 f. The Agency shall have the authority to adopt
28 procedural rules, in accordance with the Illinois
29 Administrative Procedure Act, as the Agency deems
30 necessary, to implement this subsection.

31 9. USEPA Notice and Objection.

32 a. The Agency shall provide to USEPA for its review a
33 copy of each CAAPP application (including any application

1 for permit modification), statement of basis as provided in
2 paragraph 8(b) of this Section, proposed CAAPP permit,
3 CAAPP permit, and, if the Agency does not incorporate any
4 affected State's recommendations on a proposed CAAPP
5 permit, a written statement of this decision and its
6 reasons for not accepting the recommendations, except as
7 otherwise provided in this Act or by agreement with USEPA.
8 To the extent practicable, the preceding information shall
9 be provided in computer readable format compatible with
10 USEPA's national database management system.

11 b. The Agency shall not issue the proposed CAAPP permit
12 if USEPA objects in writing within 45 days of receipt of
13 the proposed CAAPP permit and all necessary supporting
14 information.

15 c. If USEPA objects in writing to the issuance of the
16 proposed CAAPP permit within the 45-day period, the Agency
17 shall respond in writing and may revise and resubmit the
18 proposed CAAPP permit in response to the stated objection,
19 to the extent supported by the record, within 90 days after
20 the date of the objection. Prior to submitting a revised
21 permit to USEPA, the Agency shall provide the applicant and
22 any person who participated in the public comment process,
23 pursuant to subsection 8 of this Section, with a 10-day
24 period to comment on any revision which the Agency is
25 proposing to make to the permit in response to USEPA's
26 objection in accordance with Agency procedures.

27 d. Any USEPA objection under this subsection,
28 according to the Clean Air Act, will include a statement of
29 reasons for the objection and a description of the terms
30 and conditions that must be in the permit, in order to
31 adequately respond to the objections. Grounds for a USEPA
32 objection include the failure of the Agency to: (1) submit
33 the items and notices required under this subsection; (2)
34 submit any other information necessary to adequately

1 review the proposed CAAPP permit; or (3) process the permit
2 under subsection 8 of this Section except for minor permit
3 modifications.

4 e. If USEPA does not object in writing to issuance of a
5 permit under this subsection, any person may petition USEPA
6 within 60 days after expiration of the 45-day review period
7 to make such objection.

8 f. If the permit has not yet been issued and USEPA
9 objects to the permit as a result of a petition, the Agency
10 shall not issue the permit until USEPA's objection has been
11 resolved. The Agency shall provide a 10-day comment period
12 in accordance with paragraph c of this subsection. A
13 petition does not, however, stay the effectiveness of a
14 permit or its requirements if the permit was issued after
15 expiration of the 45-day review period and prior to a USEPA
16 objection.

17 g. If the Agency has issued a permit after expiration
18 of the 45-day review period and prior to receipt of a USEPA
19 objection under this subsection in response to a petition
20 submitted pursuant to paragraph e of this subsection, the
21 Agency may, upon receipt of an objection from USEPA, revise
22 and resubmit the permit to USEPA pursuant to this
23 subsection after providing a 10-day comment period in
24 accordance with paragraph c of this subsection. If the
25 Agency fails to submit a revised permit in response to the
26 objection, USEPA shall modify, terminate or revoke the
27 permit. In any case, the source will not be in violation of
28 the requirement to have submitted a timely and complete
29 application.

30 h. The Agency shall have the authority to adopt
31 procedural rules, in accordance with the Illinois
32 Administrative Procedure Act, as the Agency deems
33 necessary, to implement this subsection.

1 10. Final Agency Action.

2 a. The Agency shall issue a CAAPP permit, permit
3 modification, or permit renewal if all of the following
4 conditions are met:

5 i. The applicant has submitted a complete and
6 certified application for a permit, permit
7 modification, or permit renewal consistent with
8 subsections 5 and 14 of this Section, as applicable,
9 and applicable regulations.

10 ii. The applicant has submitted with its complete
11 application an approvable compliance plan, including a
12 schedule for achieving compliance, consistent with
13 subsection 5 of this Section and applicable
14 regulations.

15 iii. The applicant has timely paid the fees
16 required pursuant to subsection 18 of this Section and
17 applicable regulations.

18 iv. The Agency has received a complete CAAPP
19 application and, if necessary, has requested and
20 received additional information from the applicant
21 consistent with subsection 5 of this Section and
22 applicable regulations.

23 v. The Agency has complied with all applicable
24 provisions regarding public notice and affected State
25 review consistent with subsection 8 of this Section and
26 applicable regulations.

27 vi. The Agency has provided a copy of each CAAPP
28 application, or summary thereof, pursuant to agreement
29 with USEPA and proposed CAAPP permit required under
30 subsection 9 of this Section to USEPA, and USEPA has
31 not objected to the issuance of the permit in
32 accordance with the Clean Air Act and 40 CFR Part 70.

33 b. The Agency shall have the authority to deny a CAAPP
34 permit, permit modification, or permit renewal if the

1 applicant has not complied with the requirements of
2 paragraphs (a)(i)-(a)(iv) of this subsection or if USEPA
3 objects to its issuance.

4 c. i. Prior to denial of a CAAPP permit, permit
5 modification, or permit renewal under this Section,
6 the Agency shall notify the applicant of the possible
7 denial and the reasons for the denial.

8 ii. Within such notice, the Agency shall specify an
9 appropriate date by which the applicant shall
10 adequately respond to the Agency's notice. Such date
11 shall not exceed 15 days from the date the notification
12 is received by the applicant. The Agency may grant a
13 reasonable extension for good cause shown.

14 iii. Failure by the applicant to adequately
15 respond by the date specified in the notification or by
16 any granted extension date shall be grounds for denial
17 of the permit.

18 For purposes of obtaining judicial review under
19 Sections 40.2 and 41 of this Act, the Agency shall
20 provide to USEPA and each applicant, and, upon request,
21 to affected States, any person who participated in the
22 public comment process, and any other person who could
23 obtain judicial review under Sections 40.2 and 41 of
24 this Act, a copy of each CAAPP permit or notification
25 of denial pertaining to that party.

26 d. The Agency shall have the authority to adopt
27 procedural rules, in accordance with the Illinois
28 Administrative Procedure Act, as the Agency deems
29 necessary, to implement this subsection.

30 11. General Permits.

31 a. The Agency may issue a general permit covering
32 numerous similar sources, except for affected sources for
33 acid deposition unless otherwise provided in regulations

1 promulgated under Title IV of the Clean Air Act.

2 b. The Agency shall identify, in any general permit,
3 criteria by which sources may qualify for the general
4 permit.

5 c. CAAPP sources that would qualify for a general
6 permit must apply for coverage under the terms of the
7 general permit or must apply for a CAAPP permit consistent
8 with subsection 5 of this Section and applicable
9 regulations.

10 d. The Agency shall comply with the public comment and
11 hearing provisions of this Section as well as the USEPA and
12 affected State review procedures prior to issuance of a
13 general permit.

14 e. When granting a subsequent request by a qualifying
15 CAAPP source for coverage under the terms of a general
16 permit, the Agency shall not be required to repeat the
17 public notice and comment procedures. The granting of such
18 request shall not be considered a final permit action for
19 purposes of judicial review.

20 f. The Agency may not issue a general permit to cover
21 any discrete emission unit at a CAAPP source if another
22 CAAPP permit covers emission units at the source.

23 g. The Agency shall have the authority to adopt
24 procedural rules, in accordance with the Illinois
25 Administrative Procedure Act, as the Agency deems
26 necessary, to implement this subsection.

27 12. Operational Flexibility.

28 a. An owner or operator of a CAAPP source may make
29 changes at the CAAPP source without requiring a prior
30 permit revision, consistent with subparagraphs (a) (i)
31 through (a) (iii) of this subsection, so long as the
32 changes are not modifications under any provision of Title
33 I of the Clean Air Act and they do not exceed the emissions

1 allowable under the permit (whether expressed therein as a
2 rate of emissions or in terms of total emissions), provided
3 that the owner or operator of the CAAPP source provides
4 USEPA and the Agency with written notification as required
5 below in advance of the proposed changes, which shall be a
6 minimum of 7 days, unless otherwise provided by the Agency
7 in applicable regulations regarding emergencies. The owner
8 or operator of a CAAPP source and the Agency shall each
9 attach such notice to their copy of the relevant permit.

10 i. An owner or operator of a CAAPP source may make
11 Section 502 (b) (10) changes without a permit revision,
12 if the changes are not modifications under any
13 provision of Title I of the Clean Air Act and the
14 changes do not exceed the emissions allowable under the
15 permit (whether expressed therein as a rate of
16 emissions or in terms of total emissions).

17 A. For each such change, the written
18 notification required above shall include a brief
19 description of the change within the source, the
20 date on which the change will occur, any change in
21 emissions, and any permit term or condition that is
22 no longer applicable as a result of the change.

23 B. The permit shield described in paragraph
24 7(j) of this Section shall not apply to any change
25 made pursuant to this subparagraph.

26 ii. An owner or operator of a CAAPP source may
27 trade increases and decreases in emissions in the CAAPP
28 source, where the applicable implementation plan
29 provides for such emission trades without requiring a
30 permit revision. This provision is available in those
31 cases where the permit does not already provide for
32 such emissions trading.

33 A. Under this subparagraph (a)(ii), the
34 written notification required above shall include

1 such information as may be required by the
2 provision in the applicable implementation plan
3 authorizing the emissions trade, including at a
4 minimum, when the proposed changes will occur, a
5 description of each such change, any change in
6 emissions, the permit requirements with which the
7 source will comply using the emissions trading
8 provisions of the applicable implementation plan,
9 and the pollutants emitted subject to the
10 emissions trade. The notice shall also refer to the
11 provisions in the applicable implementation plan
12 with which the source will comply and provide for
13 the emissions trade.

14 B. The permit shield described in paragraph
15 7(j) of this Section shall not apply to any change
16 made pursuant to this subparagraph (a) (ii).
17 Compliance with the permit requirements that the
18 source will meet using the emissions trade shall be
19 determined according to the requirements of the
20 applicable implementation plan authorizing the
21 emissions trade.

22 iii. If requested within a CAAPP application, the
23 Agency shall issue a CAAPP permit which contains terms
24 and conditions, including all terms required under
25 subsection 7 of this Section to determine compliance,
26 allowing for the trading of emissions increases and
27 decreases at the CAAPP source solely for the purpose of
28 complying with a federally-enforceable emissions cap
29 that is established in the permit independent of
30 otherwise applicable requirements. The owner or
31 operator of a CAAPP source shall include in its CAAPP
32 application proposed replicable procedures and permit
33 terms that ensure the emissions trades are
34 quantifiable and enforceable. The permit shall also

1 require compliance with all applicable requirements.

2 A. Under this subparagraph (a)(iii), the
3 written notification required above shall state
4 when the change will occur and shall describe the
5 changes in emissions that will result and how these
6 increases and decreases in emissions will comply
7 with the terms and conditions of the permit.

8 B. The permit shield described in paragraph
9 7(j) of this Section shall extend to terms and
10 conditions that allow such increases and decreases
11 in emissions.

12 b. An owner or operator of a CAAPP source may make
13 changes that are not addressed or prohibited by the permit,
14 other than those which are subject to any requirements
15 under Title IV of the Clean Air Act or are modifications
16 under any provisions of Title I of the Clean Air Act,
17 without a permit revision, in accordance with the following
18 requirements:

19 (i) Each such change shall meet all applicable
20 requirements and shall not violate any existing permit
21 term or condition;

22 (ii) Sources must provide contemporaneous written
23 notice to the Agency and USEPA of each such change,
24 except for changes that qualify as insignificant under
25 provisions adopted by the Agency or the Board. Such
26 written notice shall describe each such change,
27 including the date, any change in emissions,
28 pollutants emitted, and any applicable requirement
29 that would apply as a result of the change;

30 (iii) The change shall not qualify for the shield
31 described in paragraph 7(j) of this Section; and

32 (iv) The permittee shall keep a record describing
33 changes made at the source that result in emissions of
34 a regulated air pollutant subject to an applicable

1 Clean Air Act requirement, but not otherwise regulated
2 under the permit, and the emissions resulting from
3 those changes.

4 c. The Agency shall have the authority to adopt
5 procedural rules, in accordance with the Illinois
6 Administrative Procedure Act, as the Agency deems
7 necessary to implement this subsection.

8 13. Administrative Permit Amendments.

9 a. The Agency shall take final action on a request for
10 an administrative permit amendment within 60 days of
11 receipt of the request. Neither notice nor an opportunity
12 for public and affected State comment shall be required for
13 the Agency to incorporate such revisions, provided it
14 designates the permit revisions as having been made
15 pursuant to this subsection.

16 b. The Agency shall submit a copy of the revised permit
17 to USEPA.

18 c. For purposes of this Section the term
19 "administrative permit amendment" shall be defined as a
20 permit revision that can accomplish one or more of the
21 changes described below:

22 i. Corrects typographical errors;

23 ii. Identifies a change in the name, address, or
24 phone number of any person identified in the permit, or
25 provides a similar minor administrative change at the
26 source;

27 iii. Requires more frequent monitoring or
28 reporting by the permittee;

29 iv. Allows for a change in ownership or operational
30 control of a source where the Agency determines that no
31 other change in the permit is necessary, provided that
32 a written agreement containing a specific date for
33 transfer of permit responsibility, coverage, and

1 liability between the current and new permittees has
2 been submitted to the Agency;

3 v. Incorporates into the CAAPP permit the
4 requirements from preconstruction review permits
5 authorized under a USEPA-approved program, provided
6 the program meets procedural and compliance
7 requirements substantially equivalent to those
8 contained in this Section;

9 vi. (Blank); or

10 vii. Any other type of change which USEPA has
11 determined as part of the approved CAAPP permit program
12 to be similar to those included in this subsection.

13 d. The Agency shall, upon taking final action granting
14 a request for an administrative permit amendment, allow
15 coverage by the permit shield in paragraph 7(j) of this
16 Section for administrative permit amendments made pursuant
17 to subparagraph (c)(v) of this subsection which meet the
18 relevant requirements for significant permit
19 modifications.

20 e. Permit revisions and modifications, including
21 administrative amendments and automatic amendments
22 (pursuant to Sections 408(b) and 403(d) of the Clean Air
23 Act or regulations promulgated thereunder), for purposes
24 of the acid rain portion of the permit shall be governed by
25 the regulations promulgated under Title IV of the Clean Air
26 Act. Owners or operators of affected sources for acid
27 deposition shall have the flexibility to amend their
28 compliance plans as provided in the regulations
29 promulgated under Title IV of the Clean Air Act.

30 f. The CAAPP source may implement the changes addressed
31 in the request for an administrative permit amendment
32 immediately upon submittal of the request.

33 g. The Agency shall have the authority to adopt
34 procedural rules, in accordance with the Illinois

1 Administrative Procedure Act, as the Agency deems
2 necessary, to implement this subsection.

3 14. Permit Modifications.

4 a. Minor permit modification procedures.

5 i. The Agency shall review a permit modification
6 using the "minor permit" modification procedures only
7 for those permit modifications that:

8 A. Do not violate any applicable requirement;

9 B. Do not involve significant changes to
10 existing monitoring, reporting, or recordkeeping
11 requirements in the permit;

12 C. Do not require a case-by-case determination
13 of an emission limitation or other standard, or a
14 source-specific determination of ambient impacts,
15 or a visibility or increment analysis;

16 D. Do not seek to establish or change a permit
17 term or condition for which there is no
18 corresponding underlying requirement and which
19 avoids an applicable requirement to which the
20 source would otherwise be subject. Such terms and
21 conditions include:

22 1. A federally enforceable emissions cap
23 assumed to avoid classification as a
24 modification under any provision of Title I of
25 the Clean Air Act; and

26 2. An alternative emissions limit approved
27 pursuant to regulations promulgated under
28 Section 112(i)(5) of the Clean Air Act;

29 E. Are not modifications under any provision
30 of Title I of the Clean Air Act; and

31 F. Are not required to be processed as a
32 significant modification.

33 ii. Notwithstanding subparagraphs (a)(i) and

1 (b) (ii) of this subsection, minor permit modification
2 procedures may be used for permit modifications
3 involving the use of economic incentives, marketable
4 permits, emissions trading, and other similar
5 approaches, to the extent that such minor permit
6 modification procedures are explicitly provided for in
7 an applicable implementation plan or in applicable
8 requirements promulgated by USEPA.

9 iii. An applicant requesting the use of minor
10 permit modification procedures shall meet the
11 requirements of subsection 5 of this Section and shall
12 include the following in its application:

13 A. A description of the change, the emissions
14 resulting from the change, and any new applicable
15 requirements that will apply if the change occurs;

16 B. The source's suggested draft permit;

17 C. Certification by a responsible official,
18 consistent with paragraph 5(e) of this Section and
19 applicable regulations, that the proposed
20 modification meets the criteria for use of minor
21 permit modification procedures and a request that
22 such procedures be used; and

23 D. Completed forms for the Agency to use to
24 notify USEPA and affected States as required under
25 subsections 8 and 9 of this Section.

26 iv. Within 5 working days of receipt of a complete
27 permit modification application, the Agency shall
28 notify USEPA and affected States of the requested
29 permit modification in accordance with subsections 8
30 and 9 of this Section. The Agency promptly shall send
31 any notice required under paragraph 8(d) of this
32 Section to USEPA.

33 v. The Agency may not issue a final permit
34 modification until after the 45-day review period for

1 USEPA or until USEPA has notified the Agency that USEPA
2 will not object to the issuance of the permit
3 modification, whichever comes first, although the
4 Agency can approve the permit modification prior to
5 that time. Within 90 days of the Agency's receipt of an
6 application under the minor permit modification
7 procedures or 15 days after the end of USEPA's 45-day
8 review period under subsection 9 of this Section,
9 whichever is later, the Agency shall:

10 A. Issue the permit modification as proposed;

11 B. Deny the permit modification application;

12 C. Determine that the requested modification
13 does not meet the minor permit modification
14 criteria and should be reviewed under the
15 significant modification procedures; or

16 D. Revise the draft permit modification and
17 transmit to USEPA the new proposed permit
18 modification as required by subsection 9 of this
19 Section.

20 vi. Any CAAPP source may make the change proposed
21 in its minor permit modification application
22 immediately after it files such application. After the
23 CAAPP source makes the change allowed by the preceding
24 sentence, and until the Agency takes any of the actions
25 specified in subparagraphs (a) (v) (A) through (a) (v) (C)
26 of this subsection, the source must comply with both
27 the applicable requirements governing the change and
28 the proposed permit terms and conditions. During this
29 time period, the source need not comply with the
30 existing permit terms and conditions it seeks to
31 modify. If the source fails to comply with its proposed
32 permit terms and conditions during this time period,
33 the existing permit terms and conditions which it seeks
34 to modify may be enforced against it.

1 vii. The permit shield under subparagraph 7(j) of
2 this Section may not extend to minor permit
3 modifications.

4 viii. If a construction permit is required,
5 pursuant to Section 39(a) of this Act and regulations
6 thereunder, for a change for which the minor permit
7 modification procedures are applicable, the source may
8 request that the processing of the construction permit
9 application be consolidated with the processing of the
10 application for the minor permit modification. In such
11 cases, the provisions of this Section, including those
12 within subsections 5, 8, and 9, shall apply and the
13 Agency shall act on such applications pursuant to
14 subparagraph 14(a)(v). The source may make the
15 proposed change immediately after filing its
16 application for the minor permit modification. Nothing
17 in this subparagraph shall otherwise affect the
18 requirements and procedures applicable to construction
19 permits.

20 b. Group Processing of Minor Permit Modifications.

21 i. Where requested by an applicant within its
22 application, the Agency shall process groups of a
23 source's applications for certain modifications
24 eligible for minor permit modification processing in
25 accordance with the provisions of this paragraph (b).

26 ii. Permit modifications may be processed in
27 accordance with the procedures for group processing,
28 for those modifications:

29 A. Which meet the criteria for minor permit
30 modification procedures under subparagraph
31 14(a)(i) of this Section; and

32 B. That collectively are below 10 percent of
33 the emissions allowed by the permit for the
34 emissions unit for which change is requested, 20

1 percent of the applicable definition of major
2 source set forth in subsection 2 of this Section,
3 or 5 tons per year, whichever is least.

4 iii. An applicant requesting the use of group
5 processing procedures shall meet the requirements of
6 subsection 5 of this Section and shall include the
7 following in its application:

8 A. A description of the change, the emissions
9 resulting from the change, and any new applicable
10 requirements that will apply if the change occurs.

11 B. The source's suggested draft permit.

12 C. Certification by a responsible official
13 consistent with paragraph 5(e) of this Section,
14 that the proposed modification meets the criteria
15 for use of group processing procedures and a
16 request that such procedures be used.

17 D. A list of the source's other pending
18 applications awaiting group processing, and a
19 determination of whether the requested
20 modification, aggregated with these other
21 applications, equals or exceeds the threshold set
22 under subparagraph (b) (ii) (B) of this subsection.

23 E. Certification, consistent with paragraph
24 5(e), that the source has notified USEPA of the
25 proposed modification. Such notification need only
26 contain a brief description of the requested
27 modification.

28 F. Completed forms for the Agency to use to
29 notify USEPA and affected states as required under
30 subsections 8 and 9 of this Section.

31 iv. On a quarterly basis or within 5 business days
32 of receipt of an application demonstrating that the
33 aggregate of a source's pending applications equals or
34 exceeds the threshold level set forth within

1 subparagraph (b)(ii)(B) of this subsection, whichever
2 is earlier, the Agency shall promptly notify USEPA and
3 affected States of the requested permit modifications
4 in accordance with subsections 8 and 9 of this Section.
5 The Agency shall send any notice required under
6 paragraph 8(d) of this Section to USEPA.

7 v. The provisions of subparagraph (a)(v) of this
8 subsection shall apply to modifications eligible for
9 group processing, except that the Agency shall take one
10 of the actions specified in subparagraphs (a)(v)(A)
11 through (a)(v)(D) of this subsection within 180 days of
12 receipt of the application or 15 days after the end of
13 USEPA's 45-day review period under subsection 9 of this
14 Section, whichever is later.

15 vi. The provisions of subparagraph (a)(vi) of this
16 subsection shall apply to modifications for group
17 processing.

18 vii. The provisions of paragraph 7(j) of this
19 Section shall not apply to modifications eligible for
20 group processing.

21 c. Significant Permit Modifications.

22 i. Significant modification procedures shall be
23 used for applications requesting significant permit
24 modifications and for those applications that do not
25 qualify as either minor permit modifications or as
26 administrative permit amendments.

27 ii. Every significant change in existing
28 monitoring permit terms or conditions and every
29 relaxation of reporting or recordkeeping requirements
30 shall be considered significant. A modification shall
31 also be considered significant if in the judgment of
32 the Agency action on an application for modification
33 would require decisions to be made on technically
34 complex issues. Nothing herein shall be construed to

1 preclude the permittee from making changes consistent
2 with this Section that would render existing permit
3 compliance terms and conditions irrelevant.

4 iii. Significant permit modifications must meet
5 all the requirements of this Section, including those
6 for applications (including completeness review),
7 public participation, review by affected States, and
8 review by USEPA applicable to initial permit issuance
9 and permit renewal. The Agency shall take final action
10 on significant permit modifications within 9 months
11 after receipt of a complete application.

12 d. The Agency shall have the authority to adopt
13 procedural rules, in accordance with the Illinois
14 Administrative Procedure Act, as the Agency deems
15 necessary, to implement this subsection.

16 15. Reopenings for Cause by the Agency.

17 a. Each issued CAAPP permit shall include provisions
18 specifying the conditions under which the permit will be
19 reopened prior to the expiration of the permit. Such
20 revisions shall be made as expeditiously as practicable. A
21 CAAPP permit shall be reopened and revised under any of the
22 following circumstances, in accordance with procedures
23 adopted by the Agency:

24 i. Additional requirements under the Clean Air Act
25 become applicable to a major CAAPP source for which 3
26 or more years remain on the original term of the
27 permit. Such a reopening shall be completed not later
28 than 18 months after the promulgation of the applicable
29 requirement. No such revision is required if the
30 effective date of the requirement is later than the
31 date on which the permit is due to expire.

32 ii. Additional requirements (including excess
33 emissions requirements) become applicable to an

1 affected source for acid deposition under the acid rain
2 program. Excess emissions offset plans shall be deemed
3 to be incorporated into the permit upon approval by
4 USEPA.

5 iii. The Agency or USEPA determines that the permit
6 contains a material mistake or that inaccurate
7 statements were made in establishing the emissions
8 standards, limitations, or other terms or conditions
9 of the permit.

10 iv. The Agency or USEPA determines that the permit
11 must be revised or revoked to assure compliance with
12 the applicable requirements.

13 b. In the event that the Agency determines that there
14 are grounds for revoking a CAAPP permit, for cause,
15 consistent with paragraph a of this subsection, it shall
16 file a petition before the Board setting forth the basis
17 for such revocation. In any such proceeding, the Agency
18 shall have the burden of establishing that the permit
19 should be revoked under the standards set forth in this Act
20 and the Clean Air Act. Any such proceeding shall be
21 conducted pursuant to the Board's procedures for
22 adjudicatory hearings and the Board shall render its
23 decision within 120 days of the filing of the petition. The
24 Agency shall take final action to revoke and reissue a
25 CAAPP permit consistent with the Board's order.

26 c. Proceedings regarding a reopened CAAPP permit shall
27 follow the same procedures as apply to initial permit
28 issuance and shall affect only those parts of the permit
29 for which cause to reopen exists.

30 d. Reopenings under paragraph (a) of this subsection
31 shall not be initiated before a notice of such intent is
32 provided to the CAAPP source by the Agency at least 30 days
33 in advance of the date that the permit is to be reopened,
34 except that the Agency may provide a shorter time period in

1 the case of an emergency.

2 e. The Agency shall have the authority to adopt
3 procedural rules, in accordance with the Illinois
4 Administrative Procedure Act, as the Agency deems
5 necessary, to implement this subsection.

6 16. Reopenings for Cause by USEPA.

7 a. When USEPA finds that cause exists to terminate,
8 modify, or revoke and reissue a CAAPP permit pursuant to
9 subsection 15 of this Section, and thereafter notifies the
10 Agency and the permittee of such finding in writing, the
11 Agency shall forward to USEPA and the permittee a proposed
12 determination of termination, modification, or revocation
13 and reissuance as appropriate, in accordance with
14 paragraph b of this subsection. The Agency's proposed
15 determination shall be in accordance with the record, the
16 Clean Air Act, regulations promulgated thereunder, this
17 Act and regulations promulgated thereunder. Such proposed
18 determination shall not affect the permit or constitute a
19 final permit action for purposes of this Act or the
20 Administrative Review Law. The Agency shall forward to
21 USEPA such proposed determination within 90 days after
22 receipt of the notification from USEPA. If additional time
23 is necessary to submit the proposed determination, the
24 Agency shall request a 90-day extension from USEPA and
25 shall submit the proposed determination within 180 days of
26 receipt of notification from USEPA.

27 b. i. Prior to the Agency's submittal to USEPA of a
28 proposed determination to terminate or revoke and
29 reissue the permit, the Agency shall file a petition
30 before the Board setting forth USEPA's objection, the
31 permit record, the Agency's proposed determination,
32 and the justification for its proposed determination.
33 The Board shall conduct a hearing pursuant to the rules

1 prescribed by Section 32 of this Act, and the burden of
2 proof shall be on the Agency.

3 ii. After due consideration of the written and oral
4 statements, the testimony and arguments that shall be
5 submitted at hearing, the Board shall issue and enter
6 an interim order for the proposed determination, which
7 shall set forth all changes, if any, required in the
8 Agency's proposed determination. The interim order
9 shall comply with the requirements for final orders as
10 set forth in Section 33 of this Act. Issuance of an
11 interim order by the Board under this paragraph,
12 however, shall not affect the permit status and does
13 not constitute a final action for purposes of this Act
14 or the Administrative Review Law.

15 iii. The Board shall cause a copy of its interim
16 order to be served upon all parties to the proceeding
17 as well as upon USEPA. The Agency shall submit the
18 proposed determination to USEPA in accordance with the
19 Board's Interim Order within 180 days after receipt of
20 the notification from USEPA.

21 c. USEPA shall review the proposed determination to
22 terminate, modify, or revoke and reissue the permit within
23 90 days of receipt.

24 i. When USEPA reviews the proposed determination
25 to terminate or revoke and reissue and does not object,
26 the Board shall, within 7 days of receipt of USEPA's
27 final approval, enter the interim order as a final
28 order. The final order may be appealed as provided by
29 Title XI of this Act. The Agency shall take final
30 action in accordance with the Board's final order.

31 ii. When USEPA reviews such proposed determination
32 to terminate or revoke and reissue and objects, the
33 Agency shall submit USEPA's objection and the Agency's
34 comments and recommendation on the objection to the

1 Board and permittee. The Board shall review its interim
2 order in response to USEPA's objection and the Agency's
3 comments and recommendation and issue a final order in
4 accordance with Sections 32 and 33 of this Act. The
5 Agency shall, within 90 days after receipt of such
6 objection, respond to USEPA's objection in accordance
7 with the Board's final order.

8 iii. When USEPA reviews such proposed
9 determination to modify and objects, the Agency shall,
10 within 90 days after receipt of the objection, resolve
11 the objection and modify the permit in accordance with
12 USEPA's objection, based upon the record, the Clean Air
13 Act, regulations promulgated thereunder, this Act, and
14 regulations promulgated thereunder.

15 d. If the Agency fails to submit the proposed
16 determination pursuant to paragraph a of this subsection or
17 fails to resolve any USEPA objection pursuant to paragraph
18 c of this subsection, USEPA will terminate, modify, or
19 revoke and reissue the permit.

20 e. The Agency shall have the authority to adopt
21 procedural rules, in accordance with the Illinois
22 Administrative Procedure Act, as the Agency deems
23 necessary, to implement this subsection.

24 17. Title IV; Acid Rain Provisions.

25 a. The Agency shall act on initial CAAPP applications
26 for affected sources for acid deposition in accordance with
27 this Section and Title V of the Clean Air Act and
28 regulations promulgated thereunder, except as modified by
29 Title IV of the Clean Air Act and regulations promulgated
30 thereunder. The Agency shall issue initial CAAPP permits to
31 the affected sources for acid deposition which shall become
32 effective no earlier than January 1, 1995, and which shall
33 terminate on December 31, 1999, in accordance with this

1 Section. Subsequent CAAPP permits issued to affected
2 sources for acid deposition shall be issued for a fixed
3 term of 5 years. Title IV of the Clean Air Act and
4 regulations promulgated thereunder, including but not
5 limited to 40 C.F.R. Part 72, as now or hereafter amended,
6 are applicable to and enforceable under this Act.

7 b. A designated representative of an affected source
8 for acid deposition shall submit a timely and complete
9 Phase II acid rain permit application and compliance plan
10 to the Agency, not later than January 1, 1996, that meets
11 the requirements of Titles IV and V of the Clean Air Act
12 and regulations. The Agency shall act on the Phase II acid
13 rain permit application and compliance plan in accordance
14 with this Section and Title V of the Clean Air Act and
15 regulations promulgated thereunder, except as modified by
16 Title IV of the Clean Air Act and regulations promulgated
17 thereunder. The Agency shall issue the Phase II acid rain
18 permit to an affected source for acid deposition no later
19 than December 31, 1997, which shall become effective on
20 January 1, 2000, in accordance with this Section, except as
21 modified by Title IV and regulations promulgated
22 thereunder; provided that the designated representative of
23 the source submitted a timely and complete Phase II permit
24 application and compliance plan to the Agency that meets
25 the requirements of Title IV and V of the Clean Air Act and
26 regulations.

27 c. Each Phase II acid rain permit issued in accordance
28 with this subsection shall have a fixed term of 5 years.
29 Except as provided in paragraph b above, the Agency shall
30 issue or deny a Phase II acid rain permit within 18 months
31 of receiving a complete Phase II permit application and
32 compliance plan.

33 d. A designated representative of a new unit, as
34 defined in Section 402 of the Clean Air Act, shall submit a

1 timely and complete Phase II acid rain permit application
2 and compliance plan that meets the requirements of Titles
3 IV and V of the Clean Air Act and its regulations. The
4 Agency shall act on the new unit's Phase II acid rain
5 permit application and compliance plan in accordance with
6 this Section and Title V of the Clean Air Act and its
7 regulations, except as modified by Title IV of the Clean
8 Air Act and its regulations. The Agency shall reopen the
9 new unit's CAAPP permit for cause to incorporate the
10 approved Phase II acid rain permit in accordance with this
11 Section. The Phase II acid rain permit for the new unit
12 shall become effective no later than the date required
13 under Title IV of the Clean Air Act and its regulations.

14 e. A designated representative of an affected source
15 for acid deposition shall submit a timely and complete
16 Title IV NOx permit application to the Agency, not later
17 than January 1, 1998, that meets the requirements of Titles
18 IV and V of the Clean Air Act and its regulations. The
19 Agency shall reopen the Phase II acid rain permit for cause
20 and incorporate the approved NOx provisions into the Phase
21 II acid rain permit not later than January 1, 1999, in
22 accordance with this Section, except as modified by Title
23 IV of the Clean Air Act and regulations promulgated
24 thereunder. Such reopening shall not affect the term of the
25 Phase II acid rain permit.

26 f. The designated representative of the affected
27 source for acid deposition shall renew the initial CAAPP
28 permit and Phase II acid rain permit in accordance with
29 this Section and Title V of the Clean Air Act and
30 regulations promulgated thereunder, except as modified by
31 Title IV of the Clean Air Act and regulations promulgated
32 thereunder.

33 g. In the case of an affected source for acid
34 deposition for which a complete Phase II acid rain permit

1 application and compliance plan are timely received under
2 this subsection, the complete permit application and
3 compliance plan, including amendments thereto, shall be
4 binding on the owner, operator and designated
5 representative, all affected units for acid deposition at
6 the affected source, and any other unit, as defined in
7 Section 402 of the Clean Air Act, governed by the Phase II
8 acid rain permit application and shall be enforceable as an
9 acid rain permit for purposes of Titles IV and V of the
10 Clean Air Act, from the date of submission of the acid rain
11 permit application until a Phase II acid rain permit is
12 issued or denied by the Agency.

13 h. The Agency shall not include or implement any
14 measure which would interfere with or modify the
15 requirements of Title IV of the Clean Air Act or
16 regulations promulgated thereunder.

17 i. Nothing in this Section shall be construed as
18 affecting allowances or USEPA's decision regarding an
19 excess emissions offset plan, as set forth in Title IV of
20 the Clean Air Act or regulations promulgated thereunder.

21 i. No permit revision shall be required for
22 increases in emissions that are authorized by
23 allowances acquired pursuant to the acid rain program,
24 provided that such increases do not require a permit
25 revision under any other applicable requirement.

26 ii. No limit shall be placed on the number of
27 allowances held by the source. The source may not,
28 however, use allowances as a defense to noncompliance
29 with any other applicable requirement.

30 iii. Any such allowance shall be accounted for
31 according to the procedures established in regulations
32 promulgated under Title IV of the Clean Air Act.

33 j. To the extent that the federal regulations
34 promulgated under Title IV, including but not limited to 40

1 C.F.R. Part 72, as now or hereafter amended, are
2 inconsistent with the federal regulations promulgated
3 under Title V, the federal regulations promulgated under
4 Title IV shall take precedence.

5 k. The USEPA may intervene as a matter of right in any
6 permit appeal involving a Phase II acid rain permit
7 provision or denial of a Phase II acid rain permit.

8 l. It is unlawful for any owner or operator to violate
9 any terms or conditions of a Phase II acid rain permit
10 issued under this subsection, to operate any affected
11 source for acid deposition except in compliance with a
12 Phase II acid rain permit issued by the Agency under this
13 subsection, or to violate any other applicable
14 requirements.

15 m. The designated representative of an affected source
16 for acid deposition shall submit to the Agency the data and
17 information submitted quarterly to USEPA, pursuant to 40
18 CFR 75.64, concurrently with the submission to USEPA. The
19 submission shall be in the same electronic format as
20 specified by USEPA.

21 n. The Agency shall act on any petition for exemption
22 of a new unit or retired unit, as those terms are defined
23 in Section 402 of the Clean Air Act, from the requirements
24 of the acid rain program in accordance with Title IV of the
25 Clean Air Act and its regulations.

26 o. The Agency shall have the authority to adopt
27 procedural rules, in accordance with the Illinois
28 Administrative Procedure Act, as the Agency deems
29 necessary to implement this subsection.

30 18. Fee Provisions.

31 a. For each 12 month period after the date on which the
32 USEPA approves or conditionally approves the CAAPP, but in
33 no event prior to January 1, 1994, a source subject to this

1 Section or excluded under subsection 1.1 or paragraph 3(c)
2 of this Section, shall pay a fee as provided in this part
3 (a) of this subsection 18. However, a source that has been
4 excluded from the provisions of this Section under
5 subsection 1.1 or paragraph 3(c) of this Section because
6 the source emits less than 25 tons per year of any
7 combination of regulated air pollutants shall pay fees in
8 accordance with paragraph (1) of subsection (b) of Section
9 9.6.

10 i. The fee for a source allowed to emit less than
11 100 tons per year of any combination of regulated air
12 pollutants shall be \$1,800 per year.

13 ii. The fee for a source allowed to emit 100 tons
14 or more per year of any combination of regulated air
15 pollutants, except for those regulated air pollutants
16 excluded in paragraph 18(f) of this subsection, shall
17 be as follows:

18 A. The Agency shall assess an annual fee of
19 \$18.00 per ton for the allowable emissions of all
20 regulated air pollutants at that source during the
21 term of the permit. These fees shall be used by the
22 Agency and the Board to fund the activities
23 required by Title V of the Clean Air Act including
24 such activities as may be carried out by other
25 State or local agencies pursuant to paragraph (d)
26 of this subsection. The amount of such fee shall be
27 based on the information supplied by the applicant
28 in its complete CAAPP permit application or in the
29 CAAPP permit if the permit has been granted and
30 shall be determined by the amount of emissions that
31 the source is allowed to emit annually, provided
32 however, that no source shall be required to pay an
33 annual fee in excess of \$250,000. The Agency shall
34 provide as part of the permit application form

1 required under subsection 5 of this Section a
2 separate fee calculation form which will allow the
3 applicant to identify the allowable emissions and
4 calculate the fee for the term of the permit. In no
5 event shall the Agency raise the amount of
6 allowable emissions requested by the applicant
7 unless such increases are required to demonstrate
8 compliance with terms of a CAAPP permit.

9 Notwithstanding the above, any applicant may
10 seek a change in its permit which would result in
11 increases in allowable emissions due to an
12 increase in the hours of operation or production
13 rates of an emission unit or units and such a
14 change shall be consistent with the construction
15 permit requirements of the existing State permit
16 program, under Section 39(a) of this Act and
17 applicable provisions of this Section. Where a
18 construction permit is required, the Agency shall
19 expeditiously grant such construction permit and
20 shall, if necessary, modify the CAAPP permit based
21 on the same application.

22 B. The applicant or permittee may pay the fee
23 annually or semiannually for those fees greater
24 than \$5,000. However, any applicant paying a fee
25 equal to or greater than \$100,000 shall pay the
26 full amount on July 1, for the subsequent fiscal
27 year, or pay 50% of the fee on July 1 and the
28 remaining 50% by the next January 1. The Agency may
29 change any annual billing date upon reasonable
30 notice, but shall prorate the new bill so that the
31 permittee or applicant does not pay more than its
32 required fees for the fee period for which payment
33 is made.

34 b. (Blank).

1 c. (Blank).

2 d. There is hereby created in the State Treasury a
3 special fund to be known as the "CAA Permit Fund". All
4 Funds collected by the Agency pursuant to this subsection
5 shall be deposited into the Fund. The General Assembly
6 shall appropriate monies from this Fund to the Agency and
7 to the Board to carry out their obligations under this
8 Section. The General Assembly may also authorize monies to
9 be granted by the Agency from this Fund to other State and
10 local agencies which perform duties related to the CAAPP.
11 Interest generated on the monies deposited in this Fund
12 shall be returned to the Fund.

13 e. The Agency shall have the authority to adopt
14 procedural rules, in accordance with the Illinois
15 Administrative Procedure Act, as the Agency deems
16 necessary to implement this subsection.

17 f. For purposes of this subsection, the term "regulated
18 air pollutant" shall have the meaning given to it under
19 subsection 1 of this Section but shall exclude the
20 following:

21 i. carbon monoxide;

22 ii. any Class I or II substance which is a
23 regulated air pollutant solely because it is listed
24 pursuant to Section 602 of the Clean Air Act; and

25 iii. any pollutant that is a regulated air
26 pollutant solely because it is subject to a standard or
27 regulation under Section 112(r) of the Clean Air Act
28 based on the emissions allowed in the permit effective
29 in that calendar year, at the time the applicable bill
30 is generated.

31 19. Air Toxics Provisions.

32 a. In the event that the USEPA fails to promulgate in a
33 timely manner a standard pursuant to Section 112(d) of the

1 Clean Air Act, the Agency shall have the authority to issue
2 permits, pursuant to Section 112(j) of the Clean Air Act
3 and regulations promulgated thereunder, which contain
4 emission limitations which are equivalent to the emission
5 limitations that would apply to a source if an emission
6 standard had been promulgated in a timely manner by USEPA
7 pursuant to Section 112(d). Provided, however, that the
8 owner or operator of a source shall have the opportunity to
9 submit to the Agency a proposed emission limitation which
10 it determines to be equivalent to the emission limitations
11 that would apply to such source if an emission standard had
12 been promulgated in a timely manner by USEPA. If the Agency
13 refuses to include the emission limitation proposed by the
14 owner or operator in a CAAPP permit, the owner or operator
15 may petition the Board to establish whether the emission
16 limitation proposal submitted by the owner or operator
17 provides for emission limitations which are equivalent to
18 the emission limitations that would apply to the source if
19 the emission standard had been promulgated by USEPA in a
20 timely manner. The Board shall determine whether the
21 emission limitation proposed by the owner or operator or an
22 alternative emission limitation proposed by the Agency
23 provides for the level of control required under Section
24 112 of the Clean Air Act, or shall otherwise establish an
25 appropriate emission limitation, pursuant to Section 112
26 of the Clean Air Act.

27 b. Any Board proceeding brought under paragraph (a) or
28 (e) of this subsection shall be conducted according to the
29 Board's procedures for adjudicatory hearings and the Board
30 shall render its decision within 120 days of the filing of
31 the petition. Any such decision shall be subject to review
32 pursuant to Section 41 of this Act. Where USEPA promulgates
33 an applicable emission standard prior to the issuance of
34 the CAAPP permit, the Agency shall include in the permit

1 the promulgated standard, provided that the source shall
2 have the compliance period provided under Section 112(i) of
3 the Clean Air Act. Where USEPA promulgates an applicable
4 standard subsequent to the issuance of the CAAPP permit,
5 the Agency shall revise such permit upon the next renewal
6 to reflect the promulgated standard, providing a
7 reasonable time for the applicable source to comply with
8 the standard, but no longer than 8 years after the date on
9 which the source is first required to comply with the
10 emissions limitation established under this subsection.

11 c. The Agency shall have the authority to implement and
12 enforce complete or partial emission standards promulgated
13 by USEPA pursuant to Section 112(d), and standards
14 promulgated by USEPA pursuant to Sections 112(f), 112(h),
15 112(m), and 112(n), and may accept delegation of authority
16 from USEPA to implement and enforce Section 112(l) and
17 requirements for the prevention and detection of
18 accidental releases pursuant to Section 112(r) of the Clean
19 Air Act.

20 d. The Agency shall have the authority to issue permits
21 pursuant to Section 112(i) (5) of the Clean Air Act.

22 e. The Agency has the authority to implement Section
23 112(g) of the Clean Air Act consistent with the Clean Air
24 Act and federal regulations promulgated thereunder. If the
25 Agency refuses to include the emission limitations
26 proposed in an application submitted by an owner or
27 operator for a case-by-case maximum achievable control
28 technology (MACT) determination, the owner or operator may
29 petition the Board to determine whether the emission
30 limitation proposed by the owner or operator or an
31 alternative emission limitation proposed by the Agency
32 provides for a level of control required by Section 112 of
33 the Clean Air Act, or to otherwise establish an appropriate
34 emission limitation under Section 112 of the Clean Air Act.

1 20. Small Business.

2 a. For purposes of this subsection:

3 "Program" is the Small Business Stationary Source
4 Technical and Environmental Compliance Assistance Program
5 created within this State pursuant to Section 507 of the
6 Clean Air Act and guidance promulgated thereunder, to
7 provide technical assistance and compliance information to
8 small business stationary sources;

9 "Small Business Assistance Program" is a component of
10 the Program responsible for providing sufficient
11 communications with small businesses through the
12 collection and dissemination of information to small
13 business stationary sources; and

14 "Small Business Stationary Source" means a stationary
15 source that:

16 1. is owned or operated by a person that employs
17 100 or fewer individuals;

18 2. is a small business concern as defined in the
19 "Small Business Act";

20 3. is not a major source as that term is defined in
21 subsection 2 of this Section;

22 4. does not emit 50 tons or more per year of any
23 regulated air pollutant; and

24 5. emits less than 75 tons per year of all
25 regulated pollutants.

26 b. The Agency shall adopt and submit to USEPA, after
27 reasonable notice and opportunity for public comment, as a
28 revision to the Illinois state implementation plan, plans
29 for establishing the Program.

30 c. The Agency shall have the authority to enter into
31 such contracts and agreements as the Agency deems necessary
32 to carry out the purposes of this subsection.

33 d. The Agency may establish such procedures as it may

1 deem necessary for the purposes of implementing and
2 executing its responsibilities under this subsection.

3 e. There shall be appointed a Small Business Ombudsman
4 (hereinafter in this subsection referred to as
5 "Ombudsman") to monitor the Small Business Assistance
6 Program. The Ombudsman shall be a nonpartisan designated
7 official, with the ability to independently assess whether
8 the goals of the Program are being met.

9 f. The State Ombudsman Office shall be located in an
10 existing Ombudsman office within the State or in any State
11 Department.

12 g. There is hereby created a State Compliance Advisory
13 Panel (hereinafter in this subsection referred to as
14 "Panel") for determining the overall effectiveness of the
15 Small Business Assistance Program within this State.

16 h. The selection of Panel members shall be by the
17 following method:

18 1. The Governor shall select two members who are
19 not owners or representatives of owners of small
20 business stationary sources to represent the general
21 public;

22 2. The Director of the Agency shall select one
23 member to represent the Agency; and

24 3. The State Legislature shall select four members
25 who are owners or representatives of owners of small
26 business stationary sources. Both the majority and
27 minority leadership in both Houses of the Legislature
28 shall appoint one member of the panel.

29 i. Panel members should serve without compensation but
30 will receive full reimbursement for expenses including
31 travel and per diem as authorized within this State.

32 j. The Panel shall select its own Chair by a majority
33 vote. The Chair may meet and consult with the Ombudsman and
34 the head of the Small Business Assistance Program in

1 planning the activities for the Panel.

2 21. Temporary Sources.

3 a. The Agency may issue a single permit authorizing
4 emissions from similar operations by the same source owner
5 or operator at multiple temporary locations, except for
6 sources which are affected sources for acid deposition
7 under Title IV of the Clean Air Act.

8 b. The applicant must demonstrate that the operation is
9 temporary and will involve at least one change of location
10 during the term of the permit.

11 c. Any such permit shall meet all applicable
12 requirements of this Section and applicable regulations,
13 and include conditions assuring compliance with all
14 applicable requirements at all authorized locations and
15 requirements that the owner or operator notify the Agency
16 at least 10 days in advance of each change in location.

17 22. Solid Waste Incineration Units.

18 a. A CAAPP permit for a solid waste incineration unit
19 combusting municipal waste subject to standards
20 promulgated under Section 129(e) of the Clean Air Act shall
21 be issued for a period of 12 years and shall be reviewed
22 every 5 years, unless the Agency requires more frequent
23 review through Agency procedures.

24 b. During the review in paragraph (a) of this
25 subsection, the Agency shall fully review the previously
26 submitted CAAPP permit application and corresponding
27 reports subsequently submitted to determine whether the
28 source is in compliance with all applicable requirements.

29 c. If the Agency determines that the source is not in
30 compliance with all applicable requirements it shall
31 revise the CAAPP permit as appropriate.

32 d. The Agency shall have the authority to adopt

1 procedural rules, in accordance with the Illinois
2 Administrative Procedure Act, as the Agency deems
3 necessary, to implement this subsection.

4 (Source: P.A. 92-24, eff. 7-1-01; 93-32, eff. 7-1-03.)

5 (415 ILCS 5/52.4 new)

6 Sec. 52.4. Environmental Protection Foundation.

7 (a) The Agency may, in accordance with Section 10 of the
8 State Agency Entity Creation Act, create the Environmental
9 Protection Foundation as a not-for-profit foundation. The
10 Agency shall file articles of incorporation as required under
11 the General Not for Profit Corporation Act of 1986 to create
12 the Foundation. The Foundation's Board of Directors shall be
13 appointed as follows: 2 by the President of the Senate; 2 by
14 the Minority Leader of the Senate; 2 by the Speaker of the
15 House of Representatives; 2 by the Minority Leader of the House
16 of Representatives; and 4 by the Governor. Vacancies shall be
17 filled by the official who made the appointment for the vacated
18 seat on the Board. The Director of the Agency shall chair the
19 Board of Directors of the Foundation. No member of the Board of
20 Directors may receive compensation for his or her services to
21 the Foundation.

22 (b) The purposes of the Foundation are as follows: to
23 promote, support, assist, sustain, and encourage the
24 charitable, educational, scientific, and recreational
25 programs, projects, and policies of the Illinois Environmental
26 Protection Agency; to solicit and accept aid or contributions
27 of money and services consistent with the stated intent of the
28 donor and the goals of the Foundation; to accept grants for the
29 acquisition, construction, improvement, and development of
30 potential Foundation projects; to solicit and generate private
31 funding and donations of money and services that assist in
32 enhancing and preserving Illinois' air, water, and land
33 resources; and to engage generally in other lawful endeavors

1 consistent with the foregoing purposes. The Foundation shall
2 operate within the provisions of the General Not for Profit
3 Corporation Act of 1986.

4 (c) As soon as practical after the Foundation is created,
5 the Board of Directors shall meet, organize, and designate, by
6 majority vote, a treasurer, secretary, and any additional
7 officers that may be needed to carry out the activities of the
8 Foundation, and shall adopt the by-laws of the Foundation. The
9 Agency may adopt other rules deemed necessary to govern
10 Foundation procedures. The Foundation may accept gifts or
11 grants from the federal government, its agencies or officers,
12 or from any person, firm, or corporation, and may expend
13 receipts on activities that it considers suitable to the
14 performance of its duties under this Act and consistent with
15 any requirement of the grant, gift, or bequest. Funds collected
16 by the Foundation shall be considered private funds and shall
17 be held in an appropriate account outside of the State
18 treasury. The treasurer of the Foundation shall be custodian of
19 all Foundation funds. The Foundation's accounts and books shall
20 be set up and maintained in a manner approved by the Auditor
21 General and the Foundation and its officers shall be
22 responsible for the approval of recording of receipts, approval
23 of payments, and the proper filing of required reports. The
24 Foundation may be assisted in carrying out its functions by
25 personnel of the Agency on matters falling within their scope
26 and function. The Foundation shall cooperate fully with the
27 boards, commissions, agencies, departments, and institutions
28 of the State. The funds held and made available by the Illinois
29 Environmental Protection Foundation shall be subject to
30 financial and compliance audits by the Auditor General in
31 compliance with the Illinois State Auditing Act. The Foundation
32 shall not have any power of eminent domain."